



**ZONING BOARD OF APPEALS**  
**RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING**  
**100 MAPLE AVENUE**  
**SHREWSBURY, MA 01545-5398**

June 27, 2006

PUBLIC HEARING: Suzanne and Mark Coggeshall, 22 Alden Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Suzanne and Mark Coggeshall, 22 Alden Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-2 District, and a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of an addition 3 ft. from the side lot line and maintaining the existing front yard setback of property located at 22 Alden Ave. The subject premises is described on the Shrewsbury Assessor's Tax Plate 22 as Plot 265.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on June 12, 2006 and June 19, 2006.

Mr. Rosen: Please make your presentation.

Mr. Coggeshall: I'm Mark Coggeshall and this is Sue Coggeshall, my wife. We're here to request a variance to the minimum side yard requirement. The back rear corner of the garage currently sits within 5 ft. of the side yard lot line. We're asking for an additional 2 ft. to be within 3 ft. of the minimum distance from the side lot line.

Mr. Gordon: Didn't we grant this to you two years ago?

Mr. Coggeshall: Yes, you did.

Mr. Gordon: Yes, we did and that was a unanimous decision, wasn't it.

Mr. Coggeshall: That's correct. Actually, no, it was not a unanimous decision.

Mr. Gordon: Okay, but you didn't build it. Do you mind telling us why?

Mr. Coggeshall: Sure. Shortly after the appeal was granted, we had learned that the neighborhood was about to be transformed into a non-residential neighborhood. Namely, St. Mary's had purchased one house.

Ms. Coggeshall: They were looking to purchase across the street from us.

Mr. Coggeshall: They had purchased one of the homes and turned it into a preschool.

Mr. Gordon: Yes.

Mr. Coggeshall: It turned out to be fine, you know, no problems. But they were making overtures towards the person who lived directly across the street from us. They had made offers to purchase his house and also to a couple of people on the opposite side of the street from us adjacent to St. Mary's. We tried to get to the root of what their intentions were. We had heard everything from additional buildings to potentially a parking lot. So, while this all sort of settled out, we decided to hold off on building because we just didn't want to live across from a parking lot or a non-residential area and invest in our home.

Mr. Gordon: Okay, so then the permit expired?

Mr. Coggeshall: That's correct, right. It wasn't until about six or eight months ago when our neighbors across the street decided to sell to another young couple who moved in. It was almost a year ago, I guess. St. Mary's did not get that property and a young couple moved in. They're pretty much there to stay. So, we feel comfortable that it's going to maintain a residential feel to the neighborhood.

Mr. Gordon: Okay, thank you.

Mr. Rosen: Are there any other questions? There are no changes in the plans from what you presented two years ago?

Ms. Coggeshall: No.

Mr. George: Do you have any plans so that some of the board members who weren't on the board at the time could see what you plan on doing?

Mr. Coggeshall: Yes. May I bring them up?

Mr. George: Sure.

(Mr. Coggeshall presented the plans to the board members.)

Mr. Coggeshall: That's the current house. These are the detailed plans that basically reflect the sketch of what we want to do. Do you want me to walk you through those or do you just want to scan them?

Mr. Smith: Yes, what do I see here?

Mr. Coggeshall: This is the front view with the new garage at the front of the house. The garage is up even with the front. It's a single car garage.

Mr. Smith: It looks like it protrudes a little so it's the front to the bump-out here?

Mr. Coggeshall: Actually, it's really even with the front of the house the way that the final plans worked out.

Mr. Alarie: That's the special permit portion of the appeal which is to maintain that existing non-conforming front yard setback.

Mr. Coggeshall: That is a side view from here noting the new family room which will be right where the garage is currently. We have that upside down. I guess that's the rear view.

Mr. Schaetzke: The rear view?

Mr. Coggeshall: The rear, right. That's from here to here.

Mr. Schaetzke: This is the existing garage area?

Mr. Coggeshall: No. Well, the existing garage itself is an old sort of half block wall structure that's going to be razed so that the new structure can be built properly on that footprint, more than that footprint, actually. Right now, it's about 5 ft. from the corner. The reason why he sort of jogged it back is so that he could maintain this sort of angle with the property line here. So, it will be about 3 ft. instead of 5 ft.

Mr. Smith: Is the roofline the same height as the existing roofline?

Mr. Coggeshall: You know, I don't know the answer to that. It looks like it might be a little bit higher.

Ms. Coggeshall: I believe that it is.

Mr. Coggeshall: It's a little higher?

Ms. Coggeshall: No, I think that it's the same.

Mr. Coggeshall: Is it the same?

Ms. Coggeshall: Yes.

Mr. Coggeshall: This will be from here over.

Mr. Smith: I don't see anything surprising there.

Mr. George: How many square feet of living space are you adding to the house?

Mr. Coggeshall: It's a total of about 1,270, including a loft. That's the foundation plan.

Mr. Smith: I think the rest of it looks okay.

Mr. Rosen: Is this something that we can have?

Mr. Coggeshall: Yes, sure, that's no problem.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? Could you please state your name for the record?

Mr. Swiss: Tim Swiss, 20 Alden Avenue. I'm right next door; I have no problems.

Mr. Rosen: Thank you for coming.

Mr. Gordon: Those are the same remarks that you made the last time.

Mr. Swiss; Well, it's the same job.

Mr. Rosen: Is there anyone else? There being none, we'll take it under advisement and notify you of the board's decision.

#### Decision

On June 27, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Suzanne and Mark Coggeshall, 22 Alden Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-2 District, and a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of an addition 3 ft. from the side lot line and maintaining the existing front yard setback of property located at 22 Alden Ave.

On August 3, 2004, the appellants were granted the aforementioned variance and special permit to allow the modification and expansion of their home, but were not able to utilize the relief provided within the statutory time period to effect such relief as set forth in Chapter 40A. The board concluded at that time that, due primarily to the size and shape of their property as well as the siting of their existing home thereon, the literal application of the minimum terms of the Zoning Bylaw would impose a significant hardship to Mr. and Mrs. Coggeshall in their attempt to expand their home. This board, in reviewing the appellants' current appeal, found that their building plans are identical to what was previously approved and concurred with the findings made in 2004 that the reduction of the existing side yard setback by 2 ft. and the utilization of the existing front yard setback to effect the proposed renovations would neither seriously depart from the intent of the Zoning Bylaw nor materially change the nonconforming features of this property. It was, therefore, unanimously voted to grant the appeal as presented to the board.

#### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Smith	Yes

PUBLIC HEARING: Brian G. Lauzon, 24 Cypress Ave., Shrewsbury, MA

**PURPOSE:** To hear the appeal of Brian G. Lauzon, 24 Cypress Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 15 ft. from the side and rear lot lines of property located at 24 Cypress Ave. The subject premises is described on the Shrewsbury Assessor's Tax Plate 8 as Plot 58-67.

**PRESENT:** Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on June 12, 2006 and June 19, 2006.

Mr. Lauzon: Thank you for having us. I brought some pictures with me. I don't have enough for everybody so you'll have to share.

(Mr. Lauzon presented the pictures to the board.)

I took photos from the back of my house to the back property line and then again from the back property line to the back of the house.

When we originally petitioned the town for a permit to put this pool in, we had figured it 21 ft. from what we thought was the back property line. We found out when we came to the building department that our back property line that we perceived to be the back of the house is actually a side property line so that we needed to be 30 ft. away from that property line instead of 20 ft.

So, what we're asking for is a 15 ft. variance to put an inground pool in. The pool would be 16 ft. by 36 ft. I believe you have a plot plan with the pool drawn in on it. McCarthy Pool has been contracted, or will be contracted, to put the pool in. As you can see from the photos, it's the back of my house but, technically, it's not the back of the property so we're asking for a variance to put that in 15 ft. from the back of the house to the back property line or what is actually the side now.

Mr. Gordon: On your lot, I see sheds. Is that the backyard where the sheds are?

Mr. Lauzon: Yes.

Mr. Gordon: Okay. The side yard is where the growth is?

Mr. Lauzon: We took down a bunch of trees there, yes. There's a lot of growth there. They're actually going to grind the stumps.

Mr. Gordon: I'm just trying to picture it. I was sort of a little confused.

Mr. Lauzon: As you can see from the map, the assessor's map, it's strange.

Mr. Gordon: Your lot is 67? You're the whole of Lot 67?

Mr. Lauzon: Yes, that's it.

Mr. Gordon: Are you going to move any of those structures or they don't have to be moved?

Mr. Lauzon: I'm hoping to move the gray one only so that it turns sideways and is at the end of the pool would be eventually, when the pool is built if we get permission to build it.

There's a lot of ledge back there so that's one of the reasons we're asking to put it 15 ft. We're going to take out a bit of ledge. It will be far enough from the back property line that we won't have to take out all that much, we're hoping.

Mr. Rosen: Okay, that's your hardship, that there's ledge?

Mr. Lauzon: There's a lot of ledge in that neighborhood and there's a lot back there too.

Mr. Rosen: Okay. Is there anyone else?

Mr. Gordon: Have you spoken with any of your neighbors?

Mr. Lauzon: I haven't spoken to any of my neighbors. My neighbor on the side that you mentioned is in Florida and the house is for sale. My neighbor to the right of me, we are very friendly with. Their house is for sale. The two neighbors in the back, we're friendly with one of them, but we haven't spoken to them. I didn't know if it was proper for us to contact them before we came here or if we should wait to come here.

Mr. Gordon: It's always good to talk to them before. Is this one of the swimmers?

Mr. Lauzon: Yes. This is my daughter Erica. She's my assistant tonight.

Mr. Schaetzke: Why not bring the pool in closer to the house?

Mr. Lauzon: There's septic in there. We have to stay so many feet off of the septic system. So, when they mapped it out, they mapped it so many feet from the tank itself which is just off from the picture if you're looking towards the back of the house. It's to the right of the bulkhead there. The leach field is off to the left from that picture.

There's a pipe that goes straight through there.

Mr. Schaetzke: Off to the left from what the picture shows? I'm not sure I understand that.

Mr. Lauzon: Maybe I could show you here.

Mr. Schaetzke: Okay.

Mr. Lauzon: The tank is here.

Mr. Schaetzke: Okay.

Mr. Lauzon: And down into this side, which is not photographed and which would be from the plan here, it's on the right-hand side of the house towards the rear.

Mr. Schaetzke: Okay.

Mr. Lauzon: That's an expansion area back there.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? Yes, ma'am? Could you state your name for the record please?

Ms. Rameshwar: My name is Satya, Satya Rameshwar. I live at 15 Ivy Path. The place that they're proposing to put the pool is just in our backyard. First of all, our question was that we didn't know where the pool was being located. Now I think that we have that clear.

The second question that we had was, what kind of fencing do they propose to put in?

Mr. Lauzon: I don't know what type of design fencing, but there'll be fencing around the pool and the gate will be alarmed in accordance with town bylaws.

Ms. Rameshwar: Is there any height to the fence because our deck is just behind their property where the pool is going to be. Will our privacy be maintained? This whole thing is our concern.

Mr. Lauzon: I believe it's a 4 ft. fence.

Mr. Rosen: The bylaw requires a 4 ft. fence.

Ms. Rameshwar: Another question is, when you talk about 15 ft. as the variance, what does that mean? Is that where the pool starts or does that include the border of the pool? Actually, we do not have a proper survey of our property itself so we have no clue where our property line ends. So, we wonder if they have done a survey and where exactly the property line ends?

Mr. Lauzon: There are marked stakes on our property line back there, yellow marked stakes. So, it has been surveyed.

Ms. Rameshwar: Okay.

Mr. George: Is it 15 ft. off the decking or what?

Mr. Rosen: It's 15 ft. off of the pool, correct?

Mr. Alarie: Yes, from the water's edge. It's not from the apron or any other part of the improvements.

Mr. Rosen: Right. Do you understand that, ma'am? It's 15 ft. from the pool to the property line.

Ms. Rameshwar: Yes, pardon?

Mr. Rosen: It's 15 ft. from the water line of the pool to the property line.

Ms. Rameshwar: I'm not clear.

Mr. Rosen: You're asking how far away it was?

Ms. Rameshwar: Yes.

Mr. Rosen: It doesn't include the decking or anything else. It's just from where the pool edge is to the property line.

Ms. Rameshwar: So, after that will start the concrete border for the pool?

Mr. Rosen: That will be within the 15 ft.

Ms. Rameshwar: Oh, okay, okay. Is there anything about the drainage? Which way will the water be drained out when the clearing time comes?

Mr. Lauzon: I don't really have answers to that. McCarthy Pools is going to be the contractor. Whatever he feels is necessary. Let's see, it's in the picture. The deep end will obviously be to the back and to the right of the property because that's the deepest part of the lot itself. So, there won't be much digging that will have to go on there.

Mr. Rosen: Okay. Is there anything that you would require in terms of drainage?

Mr. Alarie: I'm not sure because we do not have a detail of the elevations. Maybe he could explain what's going to change in terms of the contours of the lot, which way the natural flow is today?

Mr. Lauzon: It flows to the back of the property line. That's why they won't have to dig down towards the house that much, I mean to the back side of it rather, because it's already narrowed that way. They'll fill it in from there and do what they have to do. I'm not really familiar exactly with what's going to happen. I don't anticipate a whole lot of changes because it's very hilly there to begin with.

Ms. Rameshwar: Our major concern is the privacy.

Mr. Rosen: Okay.

Ms. Rameshwar: As I said, that's our major concern.

Mr. Rosen: Thank you for coming.

Mr. Lauzon: I believe that, on their side of the pool, it's going to be more towards the back of my property and not towards their property at all.

Mr. Rosen: Okay.



Mr. Smith: I have just one question. Do we require anything like shrubs or borders between the properties?

Mr. Rosen: Just the 4 ft. fence around the pool.

Mr. Lauzon: Through the chair, just to let you know, I plan on doing the vegetation all along on the back side too so there will be plenty of privacy for both of our sakes. It will be in the back property and our neighbor's side too.

Mr. Rosen: Okay. Does anyone else want to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

The decision of the board is on the following page.

#### Decision

On June 27, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Brian G. Lauzon, 24 Cypress Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 15 ft. from the side and rear lot lines of property located at 24 Cypress Ave.

The board reviewed the appellant's proposal to site an inground swimming pool within the rear yard of his property and found that, due to the unique shape of the lot, the literal application of the minimum terms of the Zoning Bylaw to this parcel would impose a significant hardship to Mr. Lauzon in his attempt to install a pool thereon. The arrangement of property lines across the rear of his home results in an increase of the required setback from what would normally be 20 ft. to 30 ft. as one of the lines technically is defined as a side lot line instead of as its rear line. They also noted that the presence of ledge upon the site and the location of the septic system servicing the dwelling further restrict the available area in which to physically place this structure. It was their opinion that, in this instance, the reduction of the required side yard setback to 15 ft. would not substantially depart from the intent of the bylaw nor create any condition which would adversely affect the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

#### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Smith	Yes

PUBLIC HEARING: Michael D. Harrington, 93 Oak Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Michael D. Harrington, 358 Grafton Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning

Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-1 District, to allow the continued maintenance of a 5 ft. side yard setback upon property located at 93 Oak Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 33 as Plot 49.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on June 12, 2006 and June 19, 2006.

(Atty. Byrne presented materials to the board.)

Atty. Byrne: Good evening Mr. Chairman and members of the board. My name is Kevin Byrne. I'm an attorney; I represent Mike Harrington. Mike lives at 358 Grafton Street here in Shrewsbury. He's lived there for a long time. Prior to that, he lived on Farmington Drive here in Shrewsbury. He's married to Nancy and he's got a couple of kids who went to school here in Shrewsbury.

We're here seeking a variance for the property located at 93 Oak Street, which is presently owned by Mike's wife Nancy. Let me also share with you some photographs that Dr. Chauala, who's name I am sure I'm mispronouncing, had taken.

(Atty. Byrne presented the pictures to the board members.)

He is the fellow who lives directly behind the property at 93 Oak.

Mr. Harrington: He's abuts it.

Atty. Byrne: He abuts the property itself.

Mr. Gordon: Which lot is he, 403?

Atty. Byrne: He's in the white house right behind this property.

Mr. Harrington: He would be Lot 3.

Atty. Byrne: Mr. Chairman and members of the board, I'm trying to recollect who of you were with us back in June in 2003 in which this matter came before the Zoning Board of Appeals. This was a property that was owned by Eleanor and Doryce Moosey. Actually, there were four sisters who lived in this house, this beautiful brick house that was built in 1921. It's brick and it has attached to it a little entryway and then, as I'm sure you can see from the photographs, I'm sure that many of you have probably driven by it, a two-car brick garage. You can date it back to 1921. At that point, the Mooseys owned the property across the street at 104 Oak Street. Because of their advanced age and the disability of one of the sisters, they wanted to move and to get out of this two-story house because they could no longer get up and down the stairs in. They wanted to move across the street and, basically, get themselves a house that was more appropriate, more age appropriate and disability appropriate for them. So, they were interested in selling this property to Mike Harrington.

The original idea when Mike looked at it was that this was something that could be potentially a six or seven house subdivision because there was a substantial amount of land. What they originally looked at and found was that the rest of it was wetlands that were not quite as delineated as perhaps they should. What they found ultimately was that there were substantial wetlands that go from there to really right back to almost to the houses on Harriet Avenue. So, what we proposed was that we could do a three house subdivision, ANR lots with the 50 ft. frontage because he had sufficient rear square footage to accommodate three houses. In order to do that, we came in in June of 2003 looking for a variance. The variance related to the garage area. The plan, and I don't think that you folks have seen and which I have here, was not available to us back in 2003. Actually, it wasn't available to the Attorney Bob Casey at that time.

Paul, you may remember Gene Casey who ran the television shop in the middle where Dance Duds used to be for a hundred years when we all had televisions fixed. He is his son who is a lawyer who represented the Mooseys for years. He, in effect, did the presentation and the rest of it at that stage. Here is a copy of that decision that I'm sure you've seen. If you haven't, there's an additional copy here. We're not coming in trying to say that it didn't exist; it happened in 2003. By a vote of four to one, that variance was denied at that stage.

What we're looking at at this stage of proceedings three years later is to show that, at the time that they came in in 2003, this was all plans on paper with everybody trying to explain where the driveway was going to be, where everything was going to fit on this. At that point, the determination was made by the engineers that the side yard between the garage and this 50 ft. entranceway into the property itself was going to be 5 ft. What was determined, and this is the plan that's before you with the handwriting on it, in all candor, is mine, but if you look at the portion of the house to be removed, keeping in mind that we're talking about a 1921 brick garage, as you look at the garage from the street, from Oak Street, it basically is 1.5 ft. from accomplishing the 10 ft. side yard setback. So, basically, the front of that garage area is 8.5 ft. from the property line. As you go back to the rear part of it, we wind up with it being 5.6 ft. or 4.5 ft. short of the 10 ft. side yard requirement as such.

We're now three years later and the houses have been sold. Mike has built a lot of stuff in Shrewsbury. Everybody is satisfied. The fellow who is behind us is here and took those photographs and has no problems with this. There is a driveway area that leads to the house. I don't know exactly how wide it is, but certainly it's not the 50 ft. aspect of it.

Basically, we're coming before you, as the Zoning Board of Appeals, with the view saying now, and we're three years later, rather than it being kind of a straight 5 ft. away from the line, we're literally going from being short 1.5 ft. to being short about 5.5 ft. and all of the variables in the middle of it. When that decision came down, when Casey got that decision, Mike's view at that point was to say "Okay, what we may be able to do is we may be able to just cut off a piece of the garage as such." What he's found out since then is that you can't just do that. Structurally, it cannot be done. So, basically, what would have to be done in order to accommodate the side yard zoning requirement and the decision of the Zoning Board of Appeals in 2003 is to literally take down and destroy that

garage and to somehow put up a new one-car garage. To make it accommodate this 1921 brick house, that is going to be extraordinarily difficult. The difference between now and 2003, I respectfully suggest to you, is the fact that, at that point, we were dealing with things on paper and now we're talking about stuff on the ground in which the abutters have no problem or difficulty with. In deed, I expect the doctor would tell you that it would probably be better just to leave things as is rather than to change them.

With reference to the variance or the hardship aspect of, I suppose we're looking at basically the shape of the lot. It is not a straight back lot. It's something that, in effect, varies from the 8.5 back to the 5.6 aspect of it. I am totally aware of, as is Mike, that he was aware of that back in 2003. I guess what we're looking at now is to say that the purpose and function of a board of appeals is to look at this from a pragmatic point of view and to say that this is somehow not going to derogate from the intent and purpose of the bylaw if we leave it exactly the way that it is, a way in which the abutters see that it is. They would rather it stay than to have it knocked down and to create something that candidly isn't going to match at that stage. I think three years later, bearing in mind it's now there, we've got the folks who I guess would be most affected by it and they do not have a problem with it. The good doctor is here tonight saying that he sees no problem with it. I don't know how wide that driveway is, probably 20 ft., 15 ft.?

Mr. Harrington: It's probably 15 ft.

Atty. Byrne: It's probably 15 ft. wide. There is a slope, as you can see from the photographs, that goes from the house itself or the garage area of it, that slopes down towards the lot line. That, in effect, is the doctor's property as such. Rather interesting is that I've walked the property and, if you look to the left of the garage itself, there's an asphalt driveway that's been there probably since 1922 that probably isn't necessarily on that particular property as such.

Mr. Harrington: They used it as a walkway to walk around to the back.

Atty. Byrne: So, again, we're looking for your indulgence. We're fully cognizant of the fact that we were defeated once before. I think that it's now at the point of saying "What harm, what difficulty, would there be in leaving this wonderful 1921 house the way that it is?"

Mr. Harrington: I believe that it would affect the character of the house.

Mr. George: In our decision the last time, was it stated that the garage was to be removed?

Atty. Byrne: I don't know that the decision said that it was to be removed. I think that, with the variance having been denied, there was no way that that house could be transferred or sold until that was accommodated. It was Mike's intent, quite frankly at the beginning, to say "Okay, I guess what we can do is we can kind of shear off a little portion of this." If you look at the exhibit that I gave you, it shows that, basically, a portion of the existing house is to be removed. It was that 1.5 back to 5.6 part of that. Mike's feeling was to say "Okay, maybe I can sear this off." But, when you actually get into the structure of this, it just can't be done.

Mr. George: He found that it can't be done why?

Atty. Byrne: Without, unfortunately, tearing it all down.

Mr. Gordon: Looking at this drawing where the broken asphalt is, is that where the property line basically is?

Atty. Byrne: No.

Mr. Harrington: On the front, probably. On the back, some of that probably goes on the doctor's property.

Atty. Byrne: The doctor brought these photographs. If you literally go out in the front, about 8.5 ft. of this part of the asphalt, candidly, is probably in that 50 ft. area.

Mr. George: Would you explain that one more time? Where is the property line in regards to the garage?

Atty. Byrne: If you look at this piece of the plan, I've got the whole plan here so that you don't think that I've been mucking around with it, this is the property line and this is the 50 ft. way that leads back to the doctor's house back here. Literally, if you take the edge of that garage and you literally walk 8.5 ft. this way, that literally is the property line.

Mr. George: So, off of that corner?

Atty. Byrne: No, that's the back of the house. This is the front. This is Oak Street up here, Paul. If you literally went 8.5 ft. out here, you're probably in this area right here. So, that this property, candidly, is part of this 50 ft. right-of-way required to accommodate this building. It was the 50 ft. right-of-way with the three times the land area kind of thing for this property. So, basically, it's kind of right here someplace.

Mr. George: So, this is the closest point to the property line?

Atty. Byrne: No, that's the furthest.

Mr. George: Oh, that's the furthest. So, the rear is the closest?

Atty. Byrne: To the property line that is here.

Mr. George: Now, would this be the rear of the house right here?

Atty. Byrne: This would be the rear of the house. That's 5.5 ft. Most of this area, quite frankly, is part of the doctor's lot.

Mr. George: That right-of-way?

Atty. Byrne: Well, it's more than a right-of-way, it's the transfer.

Mr. George: Right.

Mr. Smith: How wide is the actual driveway today?

Atty. Byrne: About 15 ft.

Mr. Gordon: Oh, the driveway for this?

Atty. Byrne: No, no, the driveway is in here. There's a 50 ft. right-of-way. The driveway itself is, the doctor could probably tell us, probably about 15 ft. It's been there for two years.

Mr. Harrington: Two or three.

Atty. Byrne: A little better than two, closer to three.

Mr. Rosen: Could you give us the hardship aspect?

Atty. Byrne: Shape, topography and soil conditions, Ron. Probably shape, a shape that I have to admit may have been created by Mike, but it is still shape. It is the fact that we don't have a straight line across. It's a straight line that, quite frankly, varies in effect that we're going from 1.5 ft., my shoe size, in the front to five of my shoes in the back. Basically, I would say, without trying to kid you, it is something that, unfortunately or fortunately, got created when they divided the property.

I think that the other thing that we were fortunate enough to do back then, is that we got three houses on Oak Street. You know, they kind of fit into the neighborhood and not having done a subdivision and that sort of thing with more houses was better for the neighborhood.

Mr. Gordon: Well, there have been no improvements to the doctor's land or to the asphalt since this has been done. Is there a reason for that?

Atty. Byrne: To the asphalt on the doctor's property?

Mr. Gordon: Well, there's been no improvement to the doctor's property. There's no grass there and there's been no improvement to the asphalt. It hasn't been cut back. Is there a reason for that?

Mr. Harrington: I believe that the asphalt hasn't been cut back probably waiting for what transpires here.

Mr. Gordon: Okay.

Atty. Byrne: I think what happened with this is that this matter finally got resolved with the Moosey sisters just this year. In April?

Mr. Harrington: Yes.

Atty. Byrne: March or April, okay. They wanted to move across the street. Mike did the house across the street for them. I think that we got ZBA relief for that because it was an in-law status that we needed relief from this board for. It just kind of went on and then it took the ladies a long time to get out of this house and move across the street. So, candidly, we had all kind of hope that this was going to happen much sooner.

Mr. George: Kevin, was this house for sale a little while back?

Atty. Byrne: Yes.

Mr. George: Was it sold?

Atty. Byrne: No, it has not been sold. Part of the reason that it hasn't been sold is that the nice ladies had some difficulty getting out and getting their stuff out and that sort of thing. Another aspect of it is that we had this kind of situation, hardship is not a financial hardship and we fully understand that, but an issue is that, as our building inspector and zoning enforcement officer could say, there's nothing that you could do with reference to selling this until this issue was resolved.

Mr. George: So, this house has been empty for three years?

Atty. Byrne: Yes. Mike's daughter is living there now.

Mr. Harrington: She had to move in there because they wouldn't insure it unless I had someone living there.

Atty. Byrne: So, again, we're looking at you in terms of you're part of the community, Mike is part of the community, and we just want to leave this where it is. The folks in the neighborhood don't seem to have terribly much difficulty with it.

Mr. Rosen: Any one else?

Dr. Chawla: I just have a few comments.

Mr. Rosen: Please state your name for the record.

Dr. Chawla: My name is Ania Chawla. I live on Oak Street.

Mr. Gordon: Can you spell that.

Dr. Chawla: C H A W L A is the last name. The first name is A N I A. So, I'm pretty happy with Mike's job. Whenever we've called them, they've been very helpful, Nancy and Mike. So, about this driveway, it's a minor problem. I was not aware of this meeting until I got this notice. I don't object if they want to leave the driveway as such. It could be a very tough problem to break it out. Just before coming here, I was talking to Mike. He told me that he would fix that area with grass or something. As long as it's fixed, I really have no objection.

Mr. Rosen: Thank you. Is there anyone else who would like to be heard on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

#### Decision

On June 27, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to deny the appeal of Michael D. Harrington, 358 Grafton Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-1 District, to allow the continued maintenance of a 5 ft. side yard setback upon property located at 93 Oak Street.

Upon review of this appeal, the board noted that a petition was presented on June 4, 2003, requesting identical relief and that, by a four to one vote, the variance was denied. That decision was rendered primarily due to the fact that the conditions prompting the request were self-created as a result of the voluntary placement of new property lines when the appellant subdivided the subject premises at that time. This board concurs with that finding and, further, is of the opinion that the granting of relief under such circumstances would conflict with the intent of the Zoning Bylaw as well as the statutory provisions set forth in Section 10 of Chapter 40A of the Mass. General Laws. Accordingly, it was unanimously voted to deny the appeal.

#### Vote

Mr. Rosen	No
Mr. George	No
Mr. Gordon	No
Mr. Schaetzke	No
Mr. Smith	No

PUBLIC HEARING: Herbert Confections, LLC, 575 Hartford Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of Hebert Confections, LLC, 575 Hartford Tpke., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the installation of a walk-up service window upon property located at 575 Hartford Tpke. The subject premises is described on the Shrewsbury Assessor's Tax Plate 48 as Plot 6.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on June 12, 2006 and June 19, 2006.

Ms. Resnick: My name is Becky Resnick. I'm the director of retail operations at Hebert Candies. I've been there for approximately eight years. This is Skip Woods. He is the manager of our plant operations. He's been there for about five or six months. Thank you for listening to our petition for this variance tonight.



An appeal was originally made and approved in 1983 along with the request to open an ice cream area inside the store and a walk-up window. At that time, the Heberts followed through with opening the inside business of the ice cream, but they did not follow through on the walk-up window. We are looking to now implement that part of the plan as we would like to build our ice cream business because is traditional with the candy and chocolate business. Our sales drop off markedly in the summertime as far as chocolate and candy go. Our ice cream builds and we would like to work off of that with a walk-up type of window to increase that business.

As you know, Mr. Polito recently purchased the property and we have signed a two-year lease with him. We would like to continue to extend that as long as we can continue to grow our business and make it a more profitable retail business again.

Mr. Rosen: Are there any questions? Mr. Gordon?

Mr. Gordon: I noticed that Mr. Polito raised the height of the parking lot so that you don't fall down into the window now.

Ms. Resnick: Yes. That was a very nice thing to do.

Mr. Gordon: Is that what the height is going to be?

Ms. Resnick: Yes.

Mr. Gordon: Are you going to have any type of awning or anything there?

Ms. Resnick: There are plans. We are planning to put an awning over that window. Right now as the building sets, there are three windows right next to each other which we are going to use. Mr. Polito has replaced all the windows on the front of the building so they are new and modern windows. We will build a shelf out. There is a stone ledge on the front of the mansion. We're looking to build a shelf out of there from both sides so that it's smooth and you can walk up to it and we can serve easier from that way and have an awning to cover it from the rain or whatever.

Mr. Gordon: You're not going to carry the ice cream from the back out to the front? Are you going to put something there?

Ms. Resnick: We have a full plan. The health inspector came by. She took a look at what we're planning. As long as we follow through with our plan, she doesn't see any problem with our being in compliance with the things that we need to comply with. We will have two dipping cabinets along with sinks and the dipping wells, that type of thing. The ice cream itself is already stored in that area in a deep freezer which is then moved into a freezer that brings it up to here a little bit at a time. So, it's all right there anyway.

Mr. Gordon: Okay. Now, I buy my ice cream at the window. Where do I go to eat it? Do I have to get back in my car or do you have a place to sit?

Ms. Resnick: You don't have to. In front of the building when you go across the parking lot there's, a rock wall. There's lawn there. There's a lot of lawn area. Right in front of

it we're moving more of our picnic tables over to that area for people to sit right there. Otherwise, they can also go to the side property where there are more tables. Our plan also is, once this is implemented, we'd like to build a bridge or a walkway over that probably 2 ft. rock wall so that people can get over it rather than climbing over it. So, that's our plan for that.

Mr. Gordon: You have to watch out that the hot rods don't try to drive over it.

Ms. Resnick: Well, yes.

Mr. Smith: I have a question about handicap access to those windows and heights for handicap access. Are there any provisions that must be made for that?

Mr. Alarie: It will definitely have to be taken into account in the final plans. They would be subject to the AAB regulations.

Ms. Resnick: As for the window height itself?

Mr. Alarie: Window service heights must meet the regulations and you mentioned something about a bridge. That throws up some flags as well relative to accessibility.

Ms. Resnick: Right. There is a way to go around also. Most people will take the shortest route possible.

Mr. Woods: That would be over the wall and we don't want people climbing over it and injuring themselves so we would probably build a small footbridge to get over the wall.

Ms. Resnick: But, you can also go around it on the road and onto the lawn.

Mr. Smith: I would just like to see on those plans something mentioned about handicap access and how that's designed into this overall solution.

Ms. Resnick: It's got to be addressed.

Mr. Smith: I would like to see that addressed and I don't know where we put that.

Mr. Rosen: It's got to comply with ADA.

Mr. Gordon: It has to be compliant with ADF.

Mr. Alarie: No, it would comply with the regulations of the Massachusetts Architectural Access Board. They are the application regulations.

Mr. Smith: Okay.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition?

Ms. Vincequere: Yes, Michele Vincequere, 293 Cherry Street. Would there be the addition of any outdoor trash receptacles? With the existing cruise nights that happen,

with the lack of receptacles that are out there when the cruise nights are over, there's usually some trash that's left along Cherry Street. I think that, if they had the addition of trash receptacles, maybe we could control that. The addition of takeout is only going to enhance that existing problem. The cars are cool, the trash isn't.

Ms. Resnick: At this time, where the tables are, we have two out there. Where the window is going to be open, we have two right there also. On our side lot for the cruise nights, I know that there are two to three of them there also at this time which we would like to help people feel the need to use. Yes, we would add additional receptacles for the trash and make sure that they're emptied every day.

Mr. Rosen: Is there anyone else who would like to comment on this petition?

Mr. Gordon: You would have no objection, I would take it, if we wanted to include the fact that we recognize that there are tables and there may be some other ones added in your special permit? I think that it was done once before through a variance or something, but just to make sure that you know that we know that people are going to eat at a table outside there, I think that we should add that in.

Ms. Resnick: That they're staying to eat there?

Mr. Gordon: Yes.

Ms. Resnick: Yes, that's no problem.

Mr. Woods: Yes.

Ms. Resnick: We want them to stay and come on in.

Mr. Rosen: There being no further comment, we'll take it under advisement and notify you of the board's decision.

### Decision

On June 27, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Herbert Confections, LLC, 575 Hartford Tpke., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the installation of a walk-up service window upon property located at 575 Hartford Tpke.

The subject property is located within a Limited Industrial District and is used predominately for the manufacturing of candy products as well as the incidental retail sales of that product. Hebert Candies has been in operation for many years with the retail aspect of its business existing as a legal nonconforming use within the industrial zone. In 1983, a special permit was issued to allow the expansion of the sales activities to include ice cream, including a walk-up service window. At that time, an ice cream parlor was established within the building, but the service window was never activated and they now propose to establish the window service.

It was the board's opinion that the installation and the seasonal use of the walk-up window would not materially change the nonconforming use of this site, that it would compliment the existing retail use of the premises and that it would not create any condition that would be harmful or injurious to the welfare of either the general public or surrounding properties. It was, therefore, unanimously voted to grant the appeal as presented to the board, including the outdoor seating areas, subject to the requirements that additional trash receptacles shall be placed in the immediate vicinity of the window and all of the aforementioned seating areas and the grounds shall be policed for litter and trash by employees at the end and the beginning of each business day.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Smith	Yes

PUBLIC HEARING: Fiber Tower Corp., 508 Boston Tpke., 800 Boston Tpke. and 157 Memorial Drive, Shrewsbury, MA.

PURPOSE: To hear the appeal of Fiber Tower Corp., 185 Berry Street, Suite 4800, San Francisco, CA, for special permits as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the installation of wireless communication antennae upon existing towers situated upon properties located at 508 Boston Tpke., 800 Boston Tpke. and 155 Memorial Drive. The subject properties are described on the Shrewsbury Assessor's Tax Plate 33 as Plot 91, Tax Plate 35 as Plot 26 and Tax Plate 47 as Plot 3-2, respectively.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on June 12, 2006 and June 19, 2006.

Ms. Lougee: Hi; good evening. My name is Jennifer Lougee. I am representing Fiber Tower. I work for TRM who is a consultant for them regarding zoning and building permits. There are three very similar projects that we are going to do at three existing towers in Shrewsbury.

The first one at 508 Boston Turnpike is a 150 ft. monopole. Basically, I'll just describe the first tower and what we're trying to do. We're trying to put on an antenna. Basically, what they do is specialize in back haul service for wireless carriers. What they're proposing to do at the Boston Turnpike site is put up one 1 ft. antenna at the 120 ft. level so there will be no more height than the 150 ft.

The second one is at 800 Boston Turnpike, which is an 85 ft. monopole. We're proposing to put three antennae, two 1 ft. antennae and one 3 ft. antenna, at the 75 ft. level.

At the third tower at Memorial Drive, it's another 150 ft. monopole, we're proposing to put two antennae, one 1 ft. and one 2 ft., at the at the 145 ft. level.

Mr. Rosen: These are preexisting towers? You're not changing the heights?

Ms. Lougee: Right.

Mr. Rosen: You're just adding antennae to the existing towers?

Ms. Lougee: Right.

Mr. Rosen: Dose anyone have any questions?

Mr. Gordon: Do any of these towers have public safety antennae on them?

Ms. Lougee: I'm not sure. We go on where there are wireless carriers.

Mr. Gordon: Okay. Would you be able to commit to us that, if public safety wanted access for repeater antennae on any one of those three towers, that you would be willing to have them there?

Ms. Lougee: Yes, I'm sure that that's no problem.

Mr. Gordon: You would not mind that being in our decision, if public service felt that they needed repeater towers, you would have no objection?

Ms. Lougee: For them to use the dishes?

Mr. Gordon: I don't know how that works.

Ms. Lougee: Okay.

Mr. Gordon: I think what happens is you put up the aerial or they put in the hardware.

Ms. Lougee: Right.

Mr. Gordon: I think that there are dead zones in that section of town. I think that one of them does have a repeater on it.

Ms. Lougee: Okay. Well, Fiber Tower, basically what we do is, these three towers are in a line of site network so they each see each other. I'm not sure if they would benefit from ours?

Mr. Gordon: I'm just saying, let's give them the option.

Ms. Lougee: Okay. That's just something that I would have to talk to the client about but it would definitely not be a problem if it can be done.

Mr. Smith: I share your view on the repeaters Mel. I just want to make sure though that we don't have to, as the town, incur the engineering costs for that. I would like to see that as part of the cell tower decision.

Mr. Rosen: Does anyone else have a question? Is there anyone in attendance who would like to comment on this petition?

Mr. Gordon: Excuse me, how many carriers are on there now?

Ms. Lougee: I believe there are three on each. I don't know exactly. We usually go wherever Cingular and Sprint are.

Mr. Gordon: Okay, so this could be another carrier or are you improving it for an existing carrier?

Ms. Lougee: We are improving it for an existing carrier. There is still space on the towers for other carriers to come.

Mr. Gordon: Okay, because, what we did was when we first did those, I think, we asked that they be commingled because, in the old days, you guys used to like exclusive towers.

Ms. Lougee: Right.

Mr. Gordon: Several of them.

Ms. Lougee: Yes, even more so. I do work for Cingular too. We try to go where everybody is. Even more so, Fiber Tower only goes where the carriers are because they're our customer.

Mr. Gordon: Okay.

Mr. George: I have a question. What is the limit of apparatus on each tower? Is it five?

Mr. Gordon: I don't know that there is.

Mr. Rosen: Is there a limit.

Mr. Alarie: We have various towers that carry multiple vendors, some one to two and some up to five or six. I think we have five or more at the Congregational Church. I'm not sure how many are on each of these.

Mr. George: So, there's no limit then?

Mr. Alarie: No. Practically, it's based upon the height of the tower and the space needed between the antennae.

Ms. Lougee: And the tower owners run structurals just to make sure. They wouldn't sign a lease with us unless we could go on the tower.

Mr. Smith: As far as what goes on in the tower, are you the vendor that provides the tower services? Do you resell that bandwidth to different individuals?

Ms. Lougee: I don't work for the tower company. We just basically get a lease with the tower company. For instance, FBA owns 508 Boston Turnpike so they lease space to us.

Mr. Smith: Okay; it's a lease arrangement?

Ms. Lougee: Right.

Mr. Rosen: Any one else? Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

#### Decision

On June 27, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Fiber Tower Corp., 185 Berry Street, Suite 4800, San Francisco, CA, for special permits as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the installation of wireless communication antennae upon existing towers situated upon properties located at 508 Boston Tpke., 800 Boston Tpke. and 155 Memorial Drive.

Upon review of this appeal, the board reviewed the appellant's proposal to install one to three additional "back-haul" antennae upon each of the aforementioned cell towers and found that the attachment of these relatively small devices would not materially change the configuration or use of these towers. They noted that the new antennae primarily service/communicate with the telecommunication carriers/antennae located upon area structures. Traffic received through the Fiber Tower antenna at the carrier's site is processed by equipment, which is controlled by the carrier, for both local control and management functions and for further transmission via other carrier facilities. For Fiber Tower's cellular customers, the carrier's site is a base station location and the carrier-controlled electronics at the site shifts the traffic to the carrier's wireless network.

It was the board's opinion that the issuance of the special permits would advance the intent of the bylaw in promoting the installation of such antennae upon existing structures as opposed to constructing new towers to support or expand the telecommunication industry. They concluded that the installation of the proposed antennae would provide a benefit to the general public without creating any condition which would be harmful or injurious to the welfare of either the general public or area residents or business and, therefore, unanimously voted to grant the appeal as presented to the board. The special permits are issued subject to the requirement that Fiber Tower shall make every reasonable effort to provide for the siting of emergency transmission equipment upon the subject towers by the Shrewsbury police and fire services if requested to do so.

#### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Smith	Yes

PUBLIC HEARING: Perry Lopriore, 205 South Quinsigamond Avenue, Shrewsbury, MA.

PURPOSE: To hear the appeal of Perry Lopriore, 62 Shady Lane, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the use of property located at 205 South Quinsigamond Ave. for the fabrication, storage, delivery and servicing of products relating to heating and air conditioning equipment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 45 as Plot 177-1.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on June 12, 2006 and June 19, 2006.

(Atty. Byrne presented materials to the board members.)

Atty. Byrne: Mr. Chairman, I think you are familiar with that memorandum?

Mr. Rosen: Yes, I am.

Atty. Byrne: Mr. Chairman and members of the board, my name is Kevin Byrne. I am an attorney. I represent Perry Lopriore who lives across the street, just a little further from where I live, on 62 Shady Lane. Perry's lived here in Shrewsbury all of his life. He grew up in Fairlawn right behind what is now Price Chopper. He's married; he's got three kids. His son graduated, Mel, with your daughter Chloe at Shrewsbury High School this year. He has two other kids. One's a sophomore and one's going to be a freshman.

He's been in Shrewsbury all of his life and his business has been here in Shrewsbury; it's New England Heating and Air Conditioning. It's presently located at 560 Boston Turnpike. That's the cabinet building right beside Home Depot. It used to be Dick Buckley's building, the kitchen cabinet kind of place. He's been there for twelve years in the downstairs part of this. There is a new landlord. There are lease provisions and all that sort of stuff. This is not going to work out, this is probably an understatement, for Perry. He's going to have to move. His wish and desire is that he can stay in Shrewsbury where he's been for the last twelve years.

The building at 205 South Quinsigamond Avenue shows in the photographs, I'm sure you've probably driven by it or you've seen it, it is a building in, how do we say this



politically, disrepair. Dick Borghi presently owns it. Dick lived in town. Dick lived up in the planets for a hundred years. Dick, for a whole bunch of years was the Telegram and Gazette distributor here in Shrewsbury right in the center and made a gazillion dollars delivering Telegram and Gazette to all of us back in the old days. Then, he got out of that business and he bought this building and got into a business where he was doing warehousing and the packaging of sundry products and distributing them and the rest of it. He's been there doing this business for some twenty years. I think Dick had told me it was since either 85 or 86 that he's been there doing this as a "commercial business." This is a Residential B-2 District by the way. Prior to that Admore, the outfit that made cabinets and stuff like that that ultimately moved from there to Summer Street, I think that it's still on Summer Street just down beyond St. Mary's Church, was there for a whole bunch of years.

It is in tough shape, as you can see. If Perry can do his business there it is his intent to purchase the property. It needs painting to say the least. It probably needs roofing. The grounds are in not particularly great shape. If you go behind the building itself, if any of you had courage to do that, there's probably 40 or 50 ft. behind the building and then it drops off rather substantially down what at the moment looks like a cliff. There are wetlands down behind there. The building itself on the first floor is approximately 3,500 sq. ft. There is a full basement underneath it which is tantamount to 3,500 sq. ft.

What Perry wants to do is basically to move his business from the Route 9 aspect of it over to this property and to run it. What Perry tells me is his business is such that in the best of times, not probably right at the moment but in the best of times, he has had twelve employees. At the moment he has six to seven full timers. He has two part timers who are there. The vast majority of Perry's business is delivery of product, finished product, air conditioning and heating things and the rest of it will be to this site, the warehousing and storage of them there and then the taking of that in trucks, he has seven vans at the moment, to job sites. All of the work that is done by his specialists in this business is on job sites themselves. What he expects the average is going to be in this new facility is going to be the same as before. There will be about three people who will be in the building on a regular full time basis. His sister Cheryl, who is a CPA, is the comptroller of it so she's there doing the books and all of that stuff. She will also conduct her own CPA business as well as she does from the present site that he currently operates from. Perry tells me that she's generally there Mondays, Tuesdays and Thursdays. He has a sales manager and then Perry's there as frequently as he can because most of his time he spends on job sites themselves.

The deliveries of these prefabricated materials are delivered once or twice a week. He has, as I suggested, seven trucks. They are taken home by the employees at night. So, they're not stored on the property, with some variable to that. He says the worst case scenario is that two or three of them would be there with people he wouldn't be excited about taking them home. But, he says most of them are folks that have been there for a while. They take the trucks home at night; they come back in the morning.

The usual schedule is, correct me Perry if I'm wrong, that they arrive about 6:00 A.M., they drink coffee and between 6:30 and 7:00 things are loaded and they're off-site. They return and finish sometime supposedly at 3:30 so it's usually between 3:30 and 4:00. It's a Monday through Friday operation. There is no weekend work involved with this.

What you have to know and folks have to know and I'm sure Mrs. Donahue has to know it, is about ten percent of his business is what's called "fabricating." There is a delivery of this material, 4 ft. by 8 ft. sheets of metal. It's galvanized steel. They're delivered about once every two months. He gets it in quantity which is about four tons.

The work that would be done there with reference to fabricating, and I'm probably going to get this wrong and Perry can help us, is there's a computerized operated machine that is a plasma torch. So, this isn't grinding and whacking it; it's apparently done by heat, that process to cut these 4 by 8 sheets of galvanized steel. An exhaust fan hopefully will be in the roof of that building. It probably will need a new roof.

The second aspect of that fabricating aspect is the bending of this into ducting material, as such. I got educated as to what this was all about. It's 26 gauge steel which I am told is the thin, thin steel. It's done by a machine. The machine puts it on a seam and then it's bent and it's formed as such. There is some work which is the locking of it which has to be done by an air hammer of some sort. Mr. Chairman, you probably know this better than I do.

He would expect that with the condition of the building and rest of it he's talking six months to a year before this place is going to be operational for him. It contains 14,880 sq. ft. of space, as such. One of the things that I've provided you with is a memo. This is a special permit request. I suggested to somebody that this has been a commercial business. You have commercial use of this property that predates the existence of the Zoning Bylaw of 1967 between Borghi and Admore. I think somebody was in there before Admore as such, but as you can see by the business, it's obviously a commercial business. It is in a residential zone. The commercial usage has been retail and warehousing, delivery of product on the site and off-site packaging of product, as such and the construction of something when Admore was there. Section IV(B)(4) provides that a special permit can be granted if the Board of Appeals find that such change, alteration, reconstruction, expansion or enlargement is not, is not substantially more detrimental to the neighborhood or the public welfare. Mr. Chairman, you're smiling and I know exactly why you're smiling. We had this issue with regards to the Dunkin Donuts in the center of town. There is a statute and it's Chapter 40A, sec t and quite frankly our bylaw obviously intentionally mirrors the bylaw itself so that basically, the standard before you tonight is to determine whether the change, the extension or the alteration proposed by Perry is not substantially more detrimental than the existing non-conforming use to the neighborhood. I respectfully suggest on the basis of that, with a lot of work by Perry in this building that's there it is without question not going to be substantially more detrimental as such. The front of it has approximately fourteen to fifteen parking spaces. The reason that I can tell you that is the Knights of Columbus are directly across the street. The knights, by agreement with Dick Borghi, use the parking in the front of that, as such. So, basically, we're looking for that special permit usage.

Mr. Rosen: On the fabrication of the sheet metal, is that a loud operation?

Mr. Lopriore: Just the hammering is loud. It's a very short period when we're hammering. The majority of it is when we're bending and cutting and actually wrapping.

But, there is noise from hammering. We have an air hammer that might run fifteen or twenty seconds per piece.

Mr. Rosen: Is the fabrication a full time process?

Mr. Lopriore: Only when we have jobs, but typically, they're in there...

Mr. Rosen: So, you're basically just fabricating for the jobs that you have in progress?

Mr. Lopriore: Whatever comes in, bang it out and send it out the door.

Mr. Rosen: Atty. Byrne, you mentioned about the storage of inventory. I'm also assuming then that you're just buying for the jobs that you have?

Mr. Lopriore: If there's any overstock we have to hang onto it until we sell it but typically, hopefully, it's in the door and out the door.

Atty. Byrne: One of the things that Perry did is he did J.J. Farrell's project up on Orchard Meadow. He's a really good client. The vast bulk of that stuff, candidly, was in and then up there and most of the work being done on site.

Mr. George: How big did you say the building is, 14,000 sq. ft.?

Atty. Byrne: No; the building itself, the first floor is approximately 3,500 sq. ft. There's a basement under it. The whole lot is.

Mr. George: I didn't think that it was 14,000 sq. ft.

Atty. Byrne: No; the entire lot is mostly building. It's 14,880 sq. ft.

Mr. George: So, would you use the cellar for storage or would the main building be used for storage?

Atty. Byrne: I think that what he's hoping, not to interrupt him, but I think what he's hoping, ultimately, is the fabricating work, ultimately, will be done in the basement so that he can get that down and even that, hopefully, would... I guess he's not concerned. From what he tells me this laser cutting and this bending is something that's somewhat noiseless. At some point you have to put the pieces together, I guess. That's the banging part. This would be better accommodated, obviously, in the basement but at the moment the basement is absolutely still packed solid with Dick Borghi's stuff.

Mr. Gordon: I have a number of small questions. Why don't you tell us what you're going to do to the exterior of the building?

Mr. Lopriore: Well, it's my goal to bring it to a nice condition. I'm not sure if it's going to be painted. We'll probably rip the siding off and do something brand new on the façade of the building.

Atty. Byrne: I had asked him a question which had been raised by some of you at one point, would you side it or would you paint it. He said that he really hadn't made that determination yet.

Mr. Lopriore: It could even be a brick face or something. It's not going to look anything like it does.

Mr. Gordon: It looks like it needs a new roof. Are you planning on putting a new roof on?

Mr. Lopriore: My stuff has a lot of value to it so whatever needs to be done to the building we'll be doing.

Mr. Gordon: It appears that the closest residential structure is right next to where the office is. That would be on the south side of the building?

Atty. Byrne: Where the office is presently?

Mr. Gordon: Where the office is presently. Is that where you plan to keep the office?

Mr. Lopriore: We haven't done any planning on what's going to be where because there's actually a lot more space than I need presently.

Mr. Gordon: Okay.

Mr. Lopriore: So, we have to do some planning on what actually happens inside the building.

Atty. Byrne: You should see the inside of the building. He's going to have to pretty much gut the inside of the building.

Mr. Lopriore: It hasn't had a lot of work.

Mr. Gordon: It's often been said that good fences make good neighbors. Would you consider a fence blocking your business from the next door neighbor who is so close to you?

Mr. Lopriore: If that's required, I will have to do it.

Mr. Gordon: Mr. Byrne told me that your hours of operation, you mentioned it tonight, are 6:00 to 3:00. I think our bylaw is 7:00 to 7:00 but 7:00 to 5:00. Would you have any objection to starting an hour later?

Mr. Lopriore: They're not working. They come in and have coffee. We actually do start at 7:00 but it's not a problem.

Mr. Gordon: All right, but the hours of operation of the business?

Mr. Lopriore: It's 7:00 to 3:30.

Mr. Gordon: So, 7:00 to 5:00?

Mr. Lopriore: Seven to five would be better.

Mr. Gordon: Five days a week?

Atty. Byrne: His deal is that they're on the clock from 7:00 to 3:00 but they get in at 3:30 or 4:00.

Mr. Rosen: Do you do service also?

Mr. Lopriore: Yes.

Mr. Rosen: So, would you need to work on the weekends?

Mr. Lopriore: Most of that's done right out of a van.

Mr. Rosen: Okay.

Mr. Lopriore: If we had to go pick up a part or something we would do that. If there was an emergency and we had to use the building we would but it's very rare. They guys don't want to work past 4:00 or Saturdays or Sundays so we've kind of just gone with that.

Mr. Gordon: Do you use any flame?

Mr. Lopriore: There are cutting torches and, I guess you would call it a flame, a welding point.

Mr. Gordon: Well, it's an arc.

Mr. Lopriore: It's a cutting torch.

Mr. Gordon: What I meant was an acetylene torch?

Mr. Lopriore: We have them in our trucks, but in the building there's just a solder, a drain pan or something like that. It's very limited.

Mr. Gordon: Okay. I would imagine there are no sprinklers in the building?

Mr. Lopriore: No.

Atty. Byrne: We're not too sure there's water in there.

Mr. Gordon: The vandals, I'm going to say, vandals, who dumped all of the trash down in back, is it your intention to clean that up or what?

Atty. Byrne: One of the issues, if you walk the property, it drops off significantly behind the building and there are wetlands there.

Mr. Gordon: If you fall off of the back of the building, you're down a big slope.

Atty. Byrne: There's a flat area there and then there's a substantial drop-off.

Mr. Gordon: Is that your land, the drop-off?

Mr. Lopriore: We're going to have it surveyed, but we're not exactly sure. It's probably both.

Atty. Byrne: Okay. He's going to need and he intends to do conservation commission with reference to the back of that.

Mr. Gordon: Can he get down there?

Atty. Byrne: It would be very difficult. Again, we don't know if it's actually been surveyed.

Mr. Gordon: Is there going to be any exterior lighting on the building?

Mr. Lopriore: We didn't plan any kind.

Atty. Byrne: Other than security lighting.

Mr. Gordon: If you do, would you object to having it on timers or motion detectors? It's still a residential neighborhood.

Atty. Byrne: Sure.

Mr. Lopriore: Nobody really visits us. We go there

Mr. Gordon: That's a good business.

Mr. Smith: I just have a couple of questions or real quick things. From what you're saying, it doesn't sound like there will be any customers on-site. Is that a possibility?

Mr. Lopriore: Very rarely does a customer walk in to buy a filter or something. We're not retail. We don't even put out our address. My address has never been in the phone book. We use a PO Box as our address. We go to the customer.

Mr. Smith: But, your address is on all of the legal documentation, so that's fine.

Atty. Byrne: There's no showroom or anything like that.

Mr. Smith: Okay. Will there be any signage at all?

Mr. Lopriore: There'll be some type of sign.

Atty. Byrne: On the building.

Mr. Lopriore: One the building itself.

Mr. Smith: So, there won't be anything close to the road or lighted sign or anything like that?

Atty. Byrne: No.

Mr. Smith: All storage is done inside of the structure itself? Nothing is left outside or is there any outside storage?

Mr. Lopriore: We have dumpsters, containers.

Mr. Smith: Dumpsters and containers, those will be located in the back out of the view of the general neighborhood?

Mr. Lopriore: You can't get back there.

Atty. Byrne: There's a dumpster in the front that shouldn't be there. I think that that's because the back of this place is in such abysmal shape. I think that one of the photos may show them.

Mr. Lopriore: Eventually, I think that you can.

Mr. Gordon: It's next to the loading dock, right.

Mr. Lopriore: Yes.

Mr. Gordon: The dumpster's next to the loading dock.

Atty. Byrne: The dumpster is on the left

Mr. Smith: It looks like a number of people have already tried to create a dumpster out back. Those are all the questions that I had. Thank you very much.

Mr. Rosen: Does anyone else have a question?

Mr. Gordon: Have you ever thought that you might want to screen the dumpsters because it is a residential neighborhood?

Atty. Byrne: Well, if we put it directly behind the building, I don't know that that would be an issue.

Mr. Gordon: That's where it is now, next to the loading dock. It'll be visible from the Knights and it will be visible to the Donahues.

Atty. Byrne: By the time that he gets there, that's not going to be where it will be. But, in all candor, if there is a dumpster that's at all visible by any abutters or even the roadway itself, it will be appropriately screened. Perry would have no problem with that.

Mr. Gordon: Okay.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? Would you please state your name for the record.

Ms. Houde: Robin Houde, 211 South Quinsigamond Avenue.

Ms. Donahue: Frances Donahue, 198 South Quinsigamond Avenue. We also own 195-197 South Quinsigamond Avenue.

Ms. Houde: This is a petition the neighbors signed that bought the property. There are six signatures. These people all disagree with allowing this to go through.

(Ms. Houde presented the petition to the board.)

Atty. Byrne: Could we have a copy? Have you got an extra copy there?

Ms. Houde: Yes and I'd like a copy of the paper that you passed around?

Atty. Byrne: Oh sure, absolutely.

Ms. Houde: This manufacturing or fabrication we feel is going to just create more noise. They're probably going to use a rivet gun. You mentioned an exhaust vent in the roof. I'm concerned with, besides the noise factor, we're all concerned about the noise, the metal going in and out of the vehicles, the noise factor, the exhaust of some vent that's going to be placed in this new roof. I will admit that cosmetically the building is an eyesore. The company that's been in there for many years has been very quiet. This is just going to create, I think, more traffic. The road is busy enough. They have several vehicles. I dispute the fact that he said that the driveway would be enough parking for twelve to fourteen vehicles. There's no way. That driveway is a small driveway. The back of the property drops down, as you know. You can't put dumpsters there. So, the neighbors and I just feel that this isn't really acceptable to the residents. We've been long term residents. I've lived on the street for fifteen years. Frances, how long have you lived there?

Ms. Donahue: Well, my husband and I...

Mr. Rosen: Just state your name for the record.

Ms. Donahue: Frances Donahue. To give you a little history, I've been on that avenue my whole life. I've lived in that home for fifty-six years with my husband who's grandparents had that home. When Mr. Cowen had it he built that building so that he had, I think, a liquor store first. He also owned the triple decker or double decker that's next to it on the south side. He had his market there and he had a liquor store there. Then Admore Company, as Mr. Byrne explained, came in and then Dick Borghi.



I have a real problem with this. I mean a serious problem. Number one, I am surrounded by dumpsters. I have a dumpster at the K of C lot next to my boundary line. I have another dumpster from the duplex which is on the other side of my boundary line. I have the dumpster next to my duplex on the other side. I have lights glaring in my windows. I have a bocce court now next to me. I have lived there all of my life and I would like to die there but I would like to die in peace and quiet. My main concern is that if this becomes a fabricating business now what is it going to become later on? What kind of a factory are we going to end up with? I realize that it's been there. I realize that it's in poor condition but I really don't think that we need to be burdened with one more noisy thing in that neighborhood. With trucks, I can barely get out of my driveway because, as you know, that curve comes around. It's very difficult for me to get out. And further more, my tenant called me tonight and she has informed me that if this goes through she's going to leave. That is a hardship for us.

Ms. Houde: I would also like to make mention that there are other commercial properties.

Mr. Rosen: Could you just state your name for the record please?

Ms. Houde: There's Route 20.

Mr. Rosen: Could you just state your name?

Ms. Houde: Oh, excuse me.

Mr. Rosen: We're keeping an audio record.

Ms. Houde: Robin Houde, 211 South Quinsigamond Avenue. Route 20, the business that used to be the remote car starter place, right across from the Dunkin Donuts, there's a business there. There are other businesses in the area that you could find a rental or a lease or a purchase. It doesn't necessarily really have to be Shrewsbury they have to be in even though you reside here in Shrewsbury. I just don't think that it's proper to have it on the street. It's a mostly residential neighborhood and it's a busy enough street. We don't need more trucks coming in and out and the noise of clanging metal and rivet guns and laser things and what not. I think it's just not going to be acceptable for the neighborhood.

Mr. George: Can I say something?

Mr. Rosen: Go ahead.

Mr. George: I don't know if you're really informed of what type of business this is.

Ms. Houde: I know what an air conditioning business is.

Mr. George: They're not there all day long. They're out on the road or they're doing service elsewhere from what I've gathered from the information.

Ms. Houde: Yes. Well, they'll be fabricating the product there as well as loading it in their trucks, those metal air duct thing.

Mr. George: Let me just ask him a question. Are you going to be fabricating all day long five days a week?

Mr. Lopriore: No.

Ms. Houde: And loading and unloading?

Mr. Lopriore: We actually track the loading and unloading on our computers. It takes about ten minutes per truck. They're gone by 7:30. If they're not gone by 7:30, there's no noise. There's a problem because we're paying them to load a truck. That's not their job.

Mr. George: I'm just asking these questions just so that you could get a clearer understanding.

Mr. Rosen: An understanding of what's going on and what the operation will be.

Ms. Houde: But there are enough trucks going up and down South Quinsigamond Avenue already.

Ms. Donahue: Frances Donahue again. I know that my husband went over to your place and had a look at it. I know that you're good friends with my other tenant, Tim Reed, who likes you a lot. But, my point is that we are saturated with noisy things. We really are. I'm saturated on the lake side. I've got, as Mr. Gordon knows, docks encroaching on my dock. It has been one thing after another since the club left, okay. That's why my husband's grandparents, who were charter members of club, built their home there, because they were Swedes and they wanted to be near the club. I've been there for a number of years. As I say, I was born on the avenue a few houses down. Then I got married and I moved into 198 so I've been there my whole life. I'm getting tired of things being; I guess I'm tired of change. I know that that's not a good thing to be, but I'm tired of it and I'm tired of having to worry about what's coming in and what we have to face next.

Mr. Rosen: What's being presented tonight wouldn't affect that.

Ms. Donahue: I would like to sell my property someday. I'd like to sell that duplex. I don't know how much I'm going to get for a duplex that's right next to a fabricating shop. It's bad enough that I'm right across from the K of C but that's been the Lithuanian Club. As I said, that's been there forever too. It's just that we really need some arrest from all of this being imposed upon us. I'm afraid that's just what my husband and I feel. It's an imposition and it's growing to be more and more of an imposition. Now, if I loose my tenant, if I can't sell that house when I need to, if I can't sell my house when I need to, I worry about those things now and my husband worries about them.

Ms. Houde: I think that you're correct there. You probably would have trouble selling.

Ms. Donahue: So, I have to let you know that.

Ms. Houde: It would affect the market value of sales for single family or multifamily homes on that street.

Mr. Gordon: I just want to make a comment. The difference between the Lithuanian Club and the Knights of Columbus other than the Knights improved it and put lights on is an insignificant difference other than the Lithuanian Club, by the time they sold had no members. How long did it take you to find members?

Atty. Byrne: Thirty. Now we can't find the lawyer.

Mr. Gordon: When the QAC was there, I think there was much more traffic.

Ms. Donahue: It was terrible. That's why we went to the variance so that they could put that condominium right on top of me.

Mr. Gordon: Do you have a dumpster on your land?

Ms. Donahue: Not on my land.

Mr. Gordon: For your duplex?

Ms. Donahue: No.

Mr. Gordon: There is no dumpster for the duplex?

Ms. Donahue: The dumpster for shop there is right next to the line.

Mr. Gordon: Oh, okay.

Ms. Donahue: My duplex is right up against that driveway.

Mr. Gordon: Okay, so what you would like to see, if this ever were approved, is that dumpster enclosed so that your tenant wouldn't see it?

Ms. Donahue: It isn't that it's enclosed; it's just that when they come to empty it they bang, bang, bang you know.

Mr. Gordon: Oh, I'm sure.

Ms. Donahue: I've got one from the K of C, I've got one on the other side of me right next to me from the duplex. I hate dumpsters.

Mr. Gordon: How far is the back of this building from Herronwood?

Mr. Lopriore: Probably about 200 yd.

Atty. Byrne: From the road?

Mr. Lopriore: From the building to where any of their property is, it's across the wetlands. It's pretty far.

Ms. Donahue: It's directly across. You can see them.

Mr. Gordon: But it's above it so there would be some sound.

Atty. Byrne: With reference to the dumpster, I understand Mrs. Donahue's, anybody's, concern about the dumpster's in a terrible place; it shouldn't be there. I don't know that it's being used presently or whatever it was. The dumpster can be put, quite frankly, in the rear. With the K of C and the rest of it we're talking about food products and things of that nature which you are not going to find with reference to this. It will be appropriately screened if that's the concern.

With reference to the usage of the building itself, the vast bulk of what's there, I understand when you say sheet metal and things like that you think about noise and banging and crashing and all of that sort of stuff. I've gone through this with Perry to a substantial extent. The vast bulk of what's going to be there is going to be the warehousing aspect of it, in and out in vans. They are these white vans that say New England Heating and Air Conditioning on the side of it that will load up, that will go to the site and come back. It's going to be a very small part of this stuff. I pressed him on the fact that the noise factor with reference to this is this laser thing not a noise banging kind of thing. It's not cutting metal. I can understand the folks that are there saying my God it's going to be a steel mill next to me. I would also respectfully suggest, Mrs. Donahue, with reference to the value of your property that in its present condition it is not enhancing the value of anybody's property down there. I think that Perry's view with reference to this is obviously to improve it and to make it substantially better with no imposition on the neighbors. We're also not going to talk about he lives in Shrewsbury. We're not talking about somebody coming in from Brookline or something. This is a fellow who's been in this community, whose kids are in this community for a number of years.

Mr. Gordon: So, the most traffic out of this building each day would be the seven vans. When do they come back?

Atty. Byrne: At 3:30 or 4:00.

Mr. Gordon: They don't come back during the day?

Mr. Lopriore: They all don't go there and they all don't come back there either. They may leave from their homes.

Mr. Gordon: The most traffic out of this building was basically the market and the package store.

Atty. Byrne: I don't remember Admore there, but if Admore's business on Summer Street was the same that it was down there it was a lot more banging, quite frankly, than

you're going to see here. And, Dick Borghi had a bunch of trailer trucks that were in and out of there.

Mr. Rosen: I don't see traffic as a big issue.

Mr. Gordon: No, the biggest issue is is the less or more detrimental than the use that was there before.

Atty. Byrne: Right.

Mr. Gordon: I think that that's what we have to decide.

Mr. Smith: I would just like to ask one question on that. What do you get for deliveries today? How often do you get delivery?

Atty. Byrne: One or two a week?

Mr. Lopriore: Typically, it's two a week.

Mr. Smith: What's the size of the truck that makes those deliveries?

Mr. Lopriore: Presently, like an 18 ft. straight job is a typical delivery or even smaller.

Mr. Smith: So, you have the ability to back up into the delivery dock that's there today?

Mr. Lopriore: Where we are now?

Mr. Smith: Yes.

Mr. Lopriore: Yes.

Mr. Smith: Are you going to modify that so that it's not on the road?

Mr. Lopriore: We haven't thought about the loading dock but I believe that you can get a trailer truck in there presently. Yes. It's pretty far off South Quinsigamond Avenue.

Mr. Smith: So, what we're looking at is two deliveries a week? That's what you're looking at?

Mr. Lopriore: Approximately. We tend to bunch the deliveries because now they're charging.

Mr. Smith: How long to these deliveries take?

Mr. Lopriore: Twenty minutes if that.

Mr. Smith: Are you unloading these with fork trucks?

Mr. Lopriore: I have a fork truck. The only thing that we unload with the fork truck typically is the four by eight sheets because they pack them about a ton per pallet.

Mr. Gordon: Will the floor take it?

Mr. Lopriore: Pardon?

Mr. Gordon: Will this floor take a fork lift?

Mr. Lopriore: That's why we're talking about the basement as the location

Atty. Byrne: Good question!

Mr. Gordon: If the inside's anything like the outside!

Atty. Byrne: You know, it was amazing Mel when Perry first started look at, and I talked with Dick when I went down there, the amount of stuff he had on that first floor; that place was packed.

Mr. Gordon: How do you get into the first floor, the basement?

Mr. Lopriore: There's a winch presently. If you go in the loading door that's shown there, he does have a door that opens with a winch.

Mr. Gordon: Will you slide things down? How do you take them down and out, with the winch?

Mr. Lopriore: Well, he must have done that.

Mr. Gordon: How would you do it?

Mr. Lopriore: How would I do it if I was going to go into the basement?

Mr. Gordon: Yes.

Mr. Lopriore: There are two ways that we were looking at it, using the basement as the main fabricating or also reinforcing the first floor. That hasn't been determined yet to see which is the best way.

Mr. Gordon: So, the noise from this building, you're saying, would be underground?

Mr. Lopriore: If we went in the basement. We would have the doors closed. It's a pretty large building. It's going to be insulated. The noise, I don't believe, is going to be an issue outside the building unless the doors are left open.

Mr. Gordon: Now this is a special permit which allows us to do a number of things.

Mr. Rosen: My other question was going to be, if I can interrupt you for a second, are you going to be buying the building or leasing it?

Atty. Byrne: Buying it.

Mr. Rosen: Okay. So, my question is if we were to institute a time limit on this special permit, considering what your investment would be in the building...

Atty. Byrne: Those are always difficult Mr. Chairman.

Mr. Rosen: Absolutely.

Atty. Byrne: It really and truly is.

Mr. Rosen: My thing is that if it does turn out to be a nuisance.

Atty. Byrne: I understand. There's always the question of the review of it. I've told clients before that that isn't necessarily a bad idea. The issue is always you five people in three years or five years may not be here anymore and you kind of start from scratch. For him, the purchase price reflects the condition of the building as such, but the work that has to go into that place by anybody just from a public safety point of view...

Mr. Gordon: Is this building going to be brought up to any form of code, Ron?

Mr. Alarie: I guess it depends on the nature of any renovations that take place. Whatever he touches would have to meet current requirements. There's not anything that would require him to automatically bring it up to present building code standards.

Mr. Gordon: Okay. I'm not sure that I'm in favor of a time limit on this one. You'd have no objection to fencing where necessary?

Atty. Byrne: No.

Mr. Gordon: You have no objection to lighting on the outside other than what's necessary

Atty. Byrne: Other than security lighting.

Mr. Gordon: You have no objection to not starting your business before 7:00. That means people come at 6:30 or 6:00. I know that. Much as we did on Route 20, they couldn't operate their business until 7:00 or 7:30 but there was no problem with going into the building prior to that time.

Mr. Lopriore: No.

Mr. Rosen: That would restrict deliveries also.

Mr. Gordon: They couldn't happen until 7:00 in the morning. Generally, they don't anyway; do they?

Mr. Lopriore: No.

Mr. Gordon: Monday through Friday only?

Mr. Lopriore: We do have emergencies that come up. Again, it's very rare.

Mr. Gordon: Regular operating hours.

Mr. Lopriore: Regular operating hours, yes.

Mr. Smith: Would you be doing any fabricating as a result of those emergencies?

Atty. Byrne: No. Oh, I'm sorry.

Mr. Lopriore: You might have to make a plenum or some thing. Again, it would be quick. It's not the norm: it's pretty rare. If someone lost the heat in the middle of the winter and we had a furnace that had to go in on a Saturday or a Sunday we would make the stuff and go in.

Mr. Gordon: A lot of that stuff you buy from Piedmont Street though, don't you, those plenums and things like that?

Mr. Lopriore: The fittings. We make our own plenums. That's what the machine does but the majority of the stuff that goes into these buildings or homes we do is purchased. It's not fabricated. We buy it fabricated. It's a big chunk of it.

Mr. Gordon: So, it's a big Erector Set?

Mr. Lopriore: Pretty much.

Mr. Smith: I just have one last point. Would you be willing to work with the people in the community on the outside appearance of the building, give them the option of reviewing that plan? Would you be willing to do that?

Atty. Byrne: Oh, sure, absolutely.

Mr. Lopriore: Basically, I just want to fix the façade and fix it. I didn't have any plans to change the shape or anything.

Mr. Smith: No just the façade and make sure that it fits in with them.

Mr. Gordon: A fan was mentioned. What type of fan?

Atty. Byrne: I mentioned that only from the point of view when Perry told me that there was this laser thing in there. I said how does it get out and he said there has to be an exhaust system of some sort.

Mr. Gordon: Does this exhaust system have filters?

Atty. Byrne: Oh, sure.



Mr. Gordon: Or, does it just go right out to the outside?

Atty. Byrne: No, no, no. It was just how do you get stuff outside of the inside of the building.

Mr. Gordon: What are you talking about in a fan?

Atty. Byrne: I don't know.

Mr. Gordon: Ten inches or thirty inches?

Atty. Byrne: I don't know what I'm talking about.

Mr. Lopriore: The fan, I believe, is a 16 or 18 inch but the hole in the building is 30 in. by 30 in.

Mr. Gordon: Is it in the roof?

Mr. Lopriore: Presently, where we are now it's in the wall but whatever is more desirable I wouldn't be objecting to.

Mr. Gordon: What's blown out of it?

Mr. Lopriore: When it burns it's actually like smoke but it's for about three minutes per sheet.

Mr. Gordon: Are you required to filter it out?

Mr. Lopriore: No.

Mr. George: Is that exhaust smoke any worse than a furnace emitting smoke into the air from a chimney?

Mr. Lopriore: Less. Well, it's clear unless you're standing within 2 ft. of it you don't see it.

Mr. George: Just so that people get a clearer idea of what is being emitted into the air, when you say smoke they're going to think smoke.

Mr. Lopriore: No, no. It's a torch. It's a welder basically. That's what the smoke is.

Mr. Gordon: Is it an arch welder?

Mr. Lopriore: It's plasma.

Mr. Gordon: Yes, similar. If you're going to be in the basement for fabrication this would probably go through the wall, would it not or would you go up two stories?

Mr. Lopriore: We would go through the roof if the neighbors want it through the roof, but out the back is probably the best because there are no houses within probably 200 yds. out the back.

Atty. Byrne: There may be some code requirements with reference to that that would have to be looked at I would expect.

Mr. Alarie: Again, until we saw specifics it would be just conjecture.

Atty. Byrne: Yes.

Mr. Schaetzke: What's the current use of the building?

Atty. Byrne: Right at the moment, Dick Borghi just stores things in there.

Mr. George: Warehousing.

Atty. Byrne: Well, I think that Dick is actually out of business right now. I think that he's kind of shut it down, but when Dick was doing it it was trucks in and trucks out delivering and all of that sort of stuff. Right at the moment I think it's just being used for the storage of stuff that Dick Borghi still has in there.

Mr. Schaetzke: When was it most recently actively used?

Atty. Byrne: He's been doing it on and off. He's still officially in business doing it but I don't know that he's doing it with any degree of regularity. They're still using it for the purposes for which he was doing it.

Mr. George: Semi-retired?

Atty. Byrne: Pardon?

Mr. George: Semi-retired?

Atty. Byrne: I think that he's been semi-retired for a long while.

Mr. Schaetzke: Is it essentially storage, currently? Is that appropriate?

Atty. Byrne: Yes, storage at the moment. It's warehousing stuff that is brought in. I think that he's working at this stage. I don't know that he's bringing anything in at this point. I think that, basically, it's just that what's there is going out. It's still being sold.

Mr. Schaetzke: There is no construction or fabrication or anything of that nature?

Atty. Byrne: No. When he was there it was packaging of stuff that was there, but no.

Ms. Houde: I would just like to add that this operation...

Mr. Rosen: Could you just state who you are?

Ms. Houde: Robin Houde from 211 South Quinsigamond Avenue. Dick's business has been a very quiet business. The vehicles that came in there were very small. There weren't seven of them and there were no flashy signs. It was a very quiet operation. This business sounds like it's going to be a very active business, coming and going of vehicles. If you drive by and you see the property which is in disrepair, I don't dispute that at all, on the front of the property there's not a lot of space for the vehicles to park unless they're going to take out more curbing and park the vehicles this way. Then they're going to be backing in and out and so forth. I don't think that it's appropriate.

Mr. Rosen: There are no trucks that are going to be going in and out all day.

Ms. Houde: Yes.

Mr. Gordon: How far is the building off of the right-of-way? Do you happen to know?

Atty. Byrne: No.

Ms. Houde: Well, 30 ft.

Mr. Gordon: Thirty feet?

Ms. Houde: Thirty feet

Atty. Byrne: I don't know exactly where the right-of-way is.

Mr. Gordon: Off of the street or off of the right-of-way? That could be less than 30 ft.

Ms. Houde: The back of it just drops right down into the swamp area. My yard does the same thing

Mr. Gordon: Ron, do you happen to know?

Mr. Alarie: No.

Mr. Gordon: It's at least 30 ft. off of the street. How long are your vans, 20 ft. like a car?

Atty. Byrne: Well, it's a white van, 20, 22 ft.?

Ms. Houde: Twenty-two maybe?

Mr. Gordon: Okay.

Atty. Byrne: It looks like an SUV.

Ms. Houde: It's bigger than an SUV.

Atty. Byrne: Okay.

Mr. Schaetzke: I would like to ask a little bit more about the fabrication process. I'm familiar with the plasma cutter. I've been around that equipment. For those people not familiar, they don't make much more than a hum and probably about as much smoke as a cigarette. When we're talking about hammering are we talking about crimping devices or punching tools or what are we talking about when we're making noise?

Mr. Lopriore: It's called a Pittsburgh lock. It's basically a piece of quarter inch steel that goes into a seam and then you just fold over the top of the seam to lock the duct. Every piece would have a seam.

Mr. Schaetzke: So, you're making the seam or crimping the seam?

Mr. Lopriore: A roller puts the seam in it. The roller is basically silent.

Mr. Schaetzke: So, we're not talking hammering?

Mr. Lopriore: You have to hammer the seam over.

Mr. Schaetzke: Oh, how is that done?

Mr. Lopriore: Either with a hammer or an air hammer.

Mr. Schaetzke: Okay. That's relatively noisy.

Mr. Lopriore: It is noisy at times but again, to do one 8 ft. piece of duct may take twenty seconds. Again, it's a very short period of what we're going to do there.

Mr. Schaetzke: So, we're saying an 8 ft. piece of duct at twenty seconds. How many of those might we be doing in a day?

Mr. Lopriore: In a day, if we are busy we would typically do maybe twenty to thirty, if we're busy.

Mr. Rosen: On a busy day?

Mr. Schaetzke: So, you're talking less than ten minutes of noise, really?

Mr. Lopriore: It's not even that long.

Mr. Schaetzke: No, to do all of them cumulatively?

Mr. Lopriore: It's not constant by any means. It's not even half a day or a quarter of a day. That portion of it is pretty fast.

Mr. Schaetzke: Can these be done with other devices other than air hammers?

Mr. Lopriore: There are other means to do it but typically that's the fastest, best process.

Mr. Schaetzke: They can't be pressed?

Mr. Lopriore: I haven't seen it. Any large shop would have a better air hammer or unmanned air hammer.

Mr. Schaetzke: Right. Can these products be muffled? I'm familiar with the noise that those kinds of tools make. Can they be muffled?

Mr. Lopriore: Only by soundproofing the building or something. I can't imagine that the tool itself could be muffled. I haven't seen it.

Mr. Schaetzke: Could that be done to the room where that kind of operation takes place, sound proof or some sort of process to mitigate that kind of noise production?

Mr. Lopriore: I think that from our shop there's a home 150 ft. from us. We've never had a complaint. There's a day care center maybe 200 ft. We've never had anybody come up and say hey, we have a noise issue here. It's never been brought to us.

Mr. Schaetzke: Well, I hear that as a concern of the neighbors. I try to imagine me being the neighbor and how I might feel about it.

Ms. Houde: The houses are very close together where this business is. They're right on top of each other. There is no gap. They're crammed.

Mr. Schaetzke: Right.

Mr. Gordon: Can you identify yourself to the chairman so that he can keep the meeting going.

Mr. Rosen: Another thing, you do understand that this is a pre existing commercial usage building so even if Mr. Lopriore were not to purchase the building the chances are that you might end up with a commercial use there no matter what?

Ms. Houde: Most likely not a lot of noise and whatever and as much activity.

Mr. Rosen: I understand that, but I don't think that the noise situation is going to be what you expect it to be.

Mr. Schaetzke: That's why I'm asking these questions so that personally I can have a better understanding when it comes time for me to make a decision. I happen to be familiar with some of the tools that he's speaking about. Noise is a concern. I think that you can put this equipment in a room that can insulate the sound. Now I don't know if this is any comfort, but I'm familiar with an operation in another town in a residential neighborhood where the neighbors are about 50 ft. apart. That's probably about what we're talking about here, 50 ft. from the machine making the noise. This is the kind of machine you would not want to run unless you had ear protection. Because it's indoors or in a basement in this case the sound doesn't transmit or disturb others so it's possible to... I certainly want to encourage the applicant to be respectful of the neighbors and to take whatever, if this application is approved, measures are necessary to satisfy the

neighbors. On the other hand, I think that there's an advantage here to improving the structure. As is, I've been there, it's pretty unsightly.

Atty. Byrne: One of the things, Mr. Schaetzke and members of the board, that you may want to consider, realizing that it is a special permit operation, is that a provision that he will insulate or soundproof. I don't know if soundproof is an appropriate word, maybe insulate.

Mr. Rosen: Insulation.

Atty. Byrne: Sound insulation?

Mr. Schaetzke: Deadening.

Mr. Rosen: That would be an acceptable condition.

Atty. Byrne: Sound deadening that area in which this machinery was located.

Mr. Schaetzke: And, no cheap foam.

Atty. Byrne: Also, something that the building inspector says is appropriate.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition?

Ms. Houde: I just have one last question.

Mr. Rosen: State your name again please.

Ms. Houde: Robin Houde. So, when the truck backs up and they're at the loading dock how are they going to prevent the sound from traveling when they're loading up the vents into the truck and stacking them and metal on metal? The loading dock is to the right side of her duplex where her tenants are. How are they going to buffer the noise when they're putting these vents into the trucks? I can see your point of sound muffling in the basement.

Mr. Rosen: I don't think that you're going to have a totally silent operation no matter what's there. No matter what type of warehousing operation you're going to have there there are going to be trucks parked there moving things in and out. I think that Mr. Lopriore's business is such that that's a minimal part of the business. I think that you would be worse served if it was some type of warehouse in there that had a continual operation all day where there are trucks coming in and out all day. I think that here you're talking about a situation where there would be trucks coming in the morning, his six or seven trucks, and they're not all being used at all times, being loaded in the morning to go to their jobs. He represented that they don't all come back. They don't unload at the end of the day because they've utilized what they were loaded up with. In that particular case, what you're asking probably not, but I think that you're going to end up with something there where that would probably be more detrimental to you.

Atty. Byrne: What Perry whispered to me is that a substantial amount of this ducting that's going out is insulated to start with. The second part of it is he kills the employees if any of it's banged because it can't be damaged, as such. A lot of it's insulated.

Mr. Rosen: No, it's thin sheet metal. It has to be in decent shape when it gets there.

Mr. Smith: It's thin sheet metal with a coating of insulation around it.

Mr. Lopriore: If the building codes warrant, which most of them do now, they have to be wrapped. Ninety percent of our jobs go out of the shop wrapped so we don't bang metal on metal; it's actually insulation on insulation. We don't bang it either because you'll tear it and then we have to fix it. So, it's not being thrown in the truck. It's getting carried in and placed properly.

Mr. Rosen: Is there anyone else who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

### Decision

On June 27, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Perry Lopriore, 62 Shady Lane, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the use of property located at 205 South Quinsigamond Ave. for the fabrication, storage, delivery and servicing of products relating to heating and air conditioning equipment..

The subject property was developed and occupied well before the adoption of its current zoning and has a long history of varying nonconforming uses, from retail to manufacturing and assembly to storage and distribution of goods. The building was designed, constructed and used for business purposes for over 50 years. The appellant proposes to operate his heating and air condition business and for general office activities, including the storage of and assembly of related materials products and the fabrication of sheet metal ducts. It was the board's opinion that this use was very similar in nature to the activities conducted by some of the previous businesses that occupied this site, particularly the Admore Company that manufactured and assembled trade show displays and similar products. They found that, subject to specific conditions and controls, the use of the premises by Mr. Lopriore as described in his presentation to the board would not be more detrimental to the neighborhood and would not create any condition that would adversely impact the welfare of residents of this section of the South Quinsigamond Ave. corridor or of the general public. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the following:

1. The use of the subject premises as presented to the board shall be limited to those hours between 7:00 A.M. and 5:00 P.M., Monday through Friday. No deliveries shall be made to the site before 7:00 A.M. or after 5:00 P.M.
2. Solid fencing, which shall be a minimum of 6 ft. in height, shall be installed along both side lot lines extending from a point not closer than 10 ft. from the sideline of South Quinsigamond Ave. to a minimum of 15 ft. beyond the rear wall at each side of the existing building.

3. The cutting and/or fabrication of sheet metal ducts and similar products shall only be performed within the basement area of the existing building.
4. Any fan or duct system discharging exhaust from any cutting or welding process shall be discharged to the rear of the existing building.
5. There shall be no exterior lighting installed within the side or rear yard areas of the subject site.
6. The rights authorized by this granting are issued to the appellant only and shall cease should he not own or operate the subject business or own the subject property.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Smith	Yes

PUBLIC HEARING: Papa Gino's, Inc., 20 Boston Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of Papa Gino's, Inc., 600 Providence Highway, Dedham, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of an outdoor patio for the serving of food and beverage upon property located at 20 Boston Tpke. The subject premises is described on the Shrewsbury Assessor's Tax Plate 31 as Plot 86.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on June 12, 2006 and June 19, 2006.

Mr. Davis: Good evening; my name is Carlos Davis. I live at 604 Pleasant Street in Paxton, MA. I represent Papa Gino's.

They are under construction of their restaurant location here in White City Shopping Center West located in the same building where the Citizen's Bank is located, as well as Strawberries. The main part of the shopping center would be behind and then there's another building over here that has the Panera's and what have you. Anyway, their location on this plan is highlighted in orange. The restaurant tenant space is approximately 3,000 sq. ft. Within that space, they would be looking to have 71 seats during the full course of the year.

I'm before you tonight looking for a special permit that would allow them to use this blue area shown on this plan for an additional 28 seats or 32 seats rather. I'm sorry, there will



be 8 tables with 4 seats. I am going to mention to you too as far as the seating capacity, it would be combined, if we said that it was 103 seats total between what's inside and outside, that does fall below what had been previously approved for this site for a previous proposal that was for the Noodles restaurant. They went through a planning board site plan review. They were required to have some 73 parking spaces but that was with a seating capacity for them of 116. So, we are falling below that limitation that had previously been reviewed for parking purposes.

As far as our proposal here tonight, again, we're looking for patio seating on, actually, the rear of that building. The main entrance into the Papa Gino's is opposite the other building on the other side of the lot facing Panera's. Then this patio would be at the rear facing Austin Liquors or way at the back. As I say, we are under construction here. I have also gone before the Board of Selectmen seeking and have secured a Common Victuallers License to serve food only within the building for the 70 seats. I have mentioned to them that, pending your decision on the patio seating, that I would be coming back to them seeking beer and wine. I mention that to you as well because some of the features on this plan involve enclosure of that area for a beer and wine service along with their pizza and sandwiches and what their normal fare would be.

It is bounded on the perimeter by an aluminum fence that would be high enough and have the pickets spaced close enough so that, in the words of Janice, "We're not passing beer bottles out through the fence." So, there are certain considerations that come into play that are more specific to the beer and wine operation than they are to the patio, but I mention that to you so that you realize that we're dealing with a food and beer and wine operation on the patio.

We're required to have 2 means of egress out of the patio so we have gate locations at either end. If you've driven through that area recently, you would have seen an expanse of concrete that's about 21 ft. or 22 ft. in width by across the width of the building. This is about 51 \_ ft. to the length of the patio. Of course, the building is a little bit longer than that. We are pulling the fence back from the curb line here to allow passage of bypass traffic, pedestrian traffic and for people who are either coming from out of the patio as a second means of egress, emergency means of egress, or for people who may be using this walkway that comes from either behind the building or the front of the building so that they can access this walkway here without being interfered by the patio.

In yellow, I've highlighted an area where, again, and I do have some pictures, where there's a small wall. It's a short stone wall that looks to be about 18 in. high. I'll just pass that around.

(Mr. Davis presented the information to the board members.)

What we would propose to do is this would be almost a barrier of sorts to pedestrians as well, but vehicles primarily. We would be looking to put some planters in this area here to kind of discourage people from using that part of the sidewalk because it's essentially a tripping hazard.

Mr. George: In regards to this picture here, where would the fencing be for the patio?

Mr. Davis: It would be set back probably around there. You'd be able to walk entirely around the outside of the patio using the existing concrete walk.

Mr. George: Okay. So, that's a continuous walkway from the rest of the stores?

Mr. Davis: Yes.

Mr. George: Okay.

Mr. Smith: The other thing that I was wondering is, did you make any plans for the emergency egress for handicapped individuals coming out of the gate? It looks like that curb had a lip on it?

Mr. Davis: I would have to look at that to see if it shows up on the pictures. The means of egress coming out of the patio puts anybody and everybody on an exit platform beyond which you then seek the ramps back down to the parking area. Of course, right here opposite the delivery door, there's a ramp that would allow access back down to pavement elevation here. Then, on the other side, there is the normal ramp that would allow access for handicapped individuals gaining access to the main entry to the Papa Gino's.

Mr. George: So, to leave the fenced in area, you have to go back into the store?

Mr. Davis: Yes.

Mr. George: Okay, so you can't leave the patio from the patio itself? You have to go back into the store?

Mr. Davis: Well, we're discouraging people from going directly out from the patio simply by putting up signs saying "Emergency Egress Only" and we will probably end up putting, I imagine, an alarm on the gates. We are putting in panic hardware on the gates. We'll probably put in an alarm. We want to know if somebody's going to go out that gate. It will be alarmed back to the manager. Again, that's not an issue if we're not talking about beer and wine right now. As soon as we start talking about beer and wine, it is an issue.

Mr. George: Right.

Mr. Davis: But you still would have two means of egress out of that patio for emergency purposes. In other words, this qualifies as your second means of egress out of your restaurant for anybody who's trying to get out of this building quickly. Rather than have them go back through the building, they can then access the pavement area beyond by going out either one of the two exits. It will be used as emergency egress.

Mr. Gordon: Until you put liquor in, aren't you then required to make those emergencies only emergency use because, if you're going to have beer and wine, you have to regulate your access or exit because I would think that, whoever gives you that license, they would require assurance that nobody's going take a roadie with them.

Mr. Davis: Well, in terms of the design of the enclosure, there are other operational measures that we take as well. I'll point out to you on the plan that you have that we also have camera surveillance. During the evening, the area will be lit. We will have people routinely walking out through that area the same way that they do within the restaurant. The whole idea is that you don't want people walking out of there with drinks. The way that's normally administered throughout the commonwealth, I have the ABCC guidelines here, is that, essentially, all they're looking to do is to make sure that the outside patio area is enclosed by a fence, rope or other means to prevent patrons or members of the public from wandering in and out. I guess it depends on the amount of detail, the amount that you put in on any design. In this case, we're talking about a fence. But if I were to go to say the Worcester Country Club and I'm a golfer, all I'm going to see is a rope and a sign that says "No Alcohol Beyond This Point."

Mr. Gordon: One's a private membership club and one's a public Papa Gino's.

Mr. Davis: If it was a public golf course and Stow Acres is the same thing, it's similar to what they do.

Mr. Gordon: I don't want to get into an argument about that because that's beyond the purview of this board. That would be when you get your ABCC license they will tell you that it's going to be emergency only.

The original plans that Mr. Shore presented called for a vinyl lattice fence or something else to be constructed of similar material. Are you saying that this aluminum fence is going to be similar to the lattice fence or is it going to be something different?

Mr. Davis: I'm not familiar with the lattice fence proposal that came before you.

Mr. Gordon: It's in the planning board drawings. It's the last sheet, if you take a look at it.

Mr. Davis: Okay. What I have here is a fence that's not lattice. It's closely spaced vertical pickets.

Mr. Gordon: How far are those apart, 4 in.?

Mr. Davis: An inch and a half.

Mr. Gordon: Okay. It's not lattice but it's close enough.

Mr. Davis: It does the job.

Mr. Gordon: It does the job. This is 60 in., so it's 5 ft. high?

Mr. Davis: At least.

Mr. Gordon: Okay.

Mr. Davis: What we have on the drawings is 6 ft.

Mr. Gordon: Okay. The other thing that we had was it wasn't boxes, it was plantings. I thought that they were on the outside of that walkway. You're saying that the boxes now would be on the inside of the wall?

Mr. Davis: No. Where you have the wall, we're not providing any more boxes or anything because the wall itself will be a barrier.

Mr. Gordon: Oh, okay. It will just be viewing the wall?

Mr. Davis: Yes. So, where the wall terminates here and where you then proceed with normal curbing, that is where we would propose putting planters to at least act in the same way that maybe this wall acts as a visual queue. But the boxes are going outside and you still have a 6 ft walkway here so that you would be able to walk past them.

Mr. Gordon: That would be a walkway back to the service door or beyond the service door?

Mr. Davis: Well, actually, it goes to the service door but it continues on to here. We'd be talking about this walkway here.

Mr. Gordon: Right.

Mr. Davis: This goes all the way to here.

Mr. Gordon: To the old back of the building to where the bank butts into it?

Mr. Davis: Yes, all the way back up to Citizen's Bank.

Mr. Gordon: Okay. Where is your dumpster going to be?

Mr. Davis: The dumpster is located here. There's a dumpster enclosure.

Mr. Gordon: Yes, I remember that, although Mr. Shore is now putting two of the dumpsters out in front of the building in front of Strawberries. On Row G of the parking lot, there are two 5 yd. dumpsters that are supposed to be in that enclosure. The purpose of my asking is that are you going to put your dumpsters in the enclosure?

Mr. Davis: Yes.

Mr. Gordon: Is that part of your lease?

Mr. Davis: It's my understanding, yes, that the dumpsters are supposed to be put in the enclosure.

Mr. Gordon: The planning board wanted that enclosure for the simple reason that we didn't want visitors to your store to look out of your outside area and have the wonderful view of a dumpster.

Mr. Davis: Right.

Mr. Gordon: So, that's why we required it. So, we hope that you'll be pleased.

Mr. Davis: We would normally do that in any community in any development that we go into.

Mr. Gordon: Okay, I'm done for now. Do you want this back or do you want me to pass it down?

Mr. Davis: You can pass it around. You can keep it if you want.

Mr. Gordon: Why don't we put it in the file?

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

#### Decision

On June 27, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of To hear the appeal of Papa Gino's, Inc., 600 Providence Highway, Dedham, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of an outdoor patio for the serving of food and beverage upon property located at 20 Boston Tpke. The subject premises is described on the Shrewsbury Assessor's Tax Plate 31 as Plot 86.

The appellant is currently completing the tenant fit-up of their portion of an addition that was recently constructed to the outbuilding situated upon the northeast corner of the White City West shopping center. Accessory to their indoor restaurant seating, Papa Gino's proposes to utilize an outdoor patio area located along the southerly side of the aforementioned building. The patio is approximately 750 sq. ft. in area, has designed capacity of the 32 seats and would be enclosed with a 6 ft. high picket-style fence.

Upon review of this appeal, the board found that the use of the outdoor patio was in complete harmony with the intent of the Zoning Bylaw in permitting such ancillary dining facilities within the Commercial Business District. They found that the food service provided by the applicant would compliment the other restaurants located within the plaza, that it's location upon the site is ideally situated to accommodate an outdoor patio and that such use would not create any condition which would adversely impact the welfare of the general public. It was, therefore, unanimously voted to grant the appeal as presented to the board.

#### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Smith	Yes

PUBLIC HEARING: George Cadette, 840 Hartford Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of George Cadette, 31 Coachman Ridge Road, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of a drive-through window for the service of food and beverage upon property located at 840 Hartford Tpke. The subject premises is described on the Shrewsbury Assessor's Tax Plate 36 as Plot 40.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, George J. Smith and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on June 12, 2006 and June 19, 2006.

Mr. Gordon: Mr. Chairman, the planning board heard this and closed its hearing last month.

Atty. Byrne: June 12<sup>th</sup>.

Mr. Gordon: Yes, and we will be voting upon it at its next meeting, but the planning board was instrumental in changing some of the parking and site related issues. It's already been done.

Mr. Rosen: Thank you.

Atty. Byrne: Mr. Chairman and members of the board, my name is Kevin Byrne. I live on Elma Circle and I am here representing George Cadette. I think that you folks know that George lives on Coachman Ridge Road here in Shrewsbury. He has several Dunkin Donuts, the one down at White City, the one up here in the center and two on Route 20. Again, I know that you folks are aware of George and what he does by way of business.

As Mr. Gordon suggested, we started with the planning board site plan approval process. We've gone through that. There were detailed insights from the engineering department dated May 1<sup>st</sup>. As a result of those insights and the insights that we've had from the five members of the planning board, Patrick Healey, who is with us here tonight from Thompson and Liston, made some appropriate revisions in accord with what Eric Denoncourt wanted and what the members of the planning board suggested. On Monday, June 12<sup>th</sup>, the hearing was closed with reference to that. Hopefully, come July whatever the date is, we will receive a favorable decision.

This plan on Route 20 is a piece of two buildings. The one that you see to the left, obviously, is Dunkin Donuts. It complies with all of the mandates and prerequisites of our Zoning Bylaw. We think, at this stage with some assurance, that it complies with all of the mandates, requirements and suggestions from the planning board. The only thing that we need with reference to our Zoning Bylaw is a special permit for the drive-through aspect of it. Patrick can probably give you folks an overview.

Mr. Healey: Good evening Mr. Chairman, I'm Patrick Healey of Thompson and Liston Associates, the civil engineer of record for the project. The project consists of two buildings on the same lot with a driveway coming in the center here that these two uses will share. This also serves as a secondary egress to the AvalonBay project which the board is familiar with. The dumpster for the AvalonBay project is right in here.

What we're proposing is a drive-through lane where people would enter the site here, come around the perimeter of the site and come up to the drive-through lane right here. We have thirty-five parking spaces provided as well as the seventeen vehicle stacking lane up to this point where we're not blocking any spaces in. If the line were to extend beyond this point, it could accommodate another seven cars for a total of twenty-four without blocking any ingress or egress movements into the site. The front section of the store here is the Dunkin Donuts store and the rear is the commissary use where they actually make the donuts. As part of that, we have to put a limited use space in the rear here, that's the shaded area here, so that, if a truck were loading, it would come through here, park here, off-load into the rear door and then exit this way. That would not block the drive-through lane at all. The dumpsters for Dunkin Donuts are in the rear here, we have two handicap spaces located by the main entrance and we have a nice landscaping plan that we've prepared for the property.

There are two signs proposed for the lot, one for this building and one for the Dunkin Donuts on this side and on the other side here. Those are ladder type signs where the sign is up high enough that there's a clear sight distance below the sign.

As part of our site plan approval through the planning board, we did extend the sidewalk across the full length of the lot. That connects over here to the AvalonBay sidewalk from their community center. We are also extending the sidewalk through to the parking lot in the rear of the site. There are approximately 250 units in that apartment complex so we wanted to provide a safe means of access for pedestrians to get to the Dunkin Donuts store.

Atty. Byrne: Escape lanes?

Mr. Healey: There's an escape lane shown on this section of the drive-through lane up until the menu. There's a menu right here, then when cars cross over the main lane and come this way there's an escape lane from this point out. Back in here, there's enough driveway width where there's enough room for a person to get out of the lane if they decide that they don't have enough cash or if they have some emergency where they have to exit the lane.

In total on the lot, there are eighty-six parking spaces versus seventy-one that are required so there is plenty of parking on the lot. There will be reciprocal easements between the two uses. If this parking lot fills up, they'll be able to park on the other side.

Mr. Rosen: Are those eighty some odd spots just on your side?

Mr. Healey: No, they're on both.

Mr. Rosen: Oh, the whole thing, okay.

Mr. Healey: For just the Dunkin Donuts on this side, there are thirty-five spaces in addition to the drive-through. I would be happy to answer any questions that the board has.

Atty. Byrne: The bylaw itself requires a storage lane of ten and there are seventeen officially with more on-site rather than have concerns that anybody would have about cars being on Route 20.

Mr. George: The drive-through lane does not go through the parking lot? It goes on the exterior of the parking so that it's not effecting of the cars that are trying to exit or enter?

Mr. Healey: Correct. We have positioned the drive-through lane so that it will not be blocking people into a parking space so that the customers that drive in, walk into the store and drive out would have free access to their parking spaces.

Mr. Rosen: They don't have to cut the drive-through lane or anything?

Mr. Healey: There would be some cross over here. When someone's ordering from the menu, we would expect to have a gap between there and the next car.

Mr. Smith: I have a quick question. Could you take me through the process of somebody backing out of one of the parking spaces on either side there and where they would exit?

Mr. Healey: From this area here sir?

Mr. Smith: Yes, from that area would be fine.

Mr. Healey: Someone would back out of their space this way and drive around the rear of the site.

Mr. Smith: Okay. Thank you.

Mr. Rosen: There's no one in attendance and I don't think that anyone has any more questions. There being no further questions, we'll take it under advisement and notify you of the board's decision.

#### Decision

On June 27, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of George Cadette, 31 Coachman Ridge Road, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of a drive-through window for the service of food and beverage upon property located at 840 Hartford Tpke.

The subject premises fronts upon the eastbound lane of Route 20 approximately 1,200 ft. easterly of the Walnut Street intersection. It is located within a Commercial Business District and was formerly part of the site now being developed by AvalonBay for multi-



family housing. As part of the approval of that project, agreement was reached between the town and AvalonBay whereby the property's frontage would be parceled out and developed for commercial purposes. The Planning Board has recently approved the site plan for the build out of this parcel that will include a retail building containing approximately 16,300 sq. ft. of floor area as well as a second detached building to be operated as a Dunkin' Donuts franchise. The Dunkin' Donuts will provide seating, take-out and drive-through service as well as a commissary for the production of product to be transported to other sites. The drive-through service component of this business is the subject of this appeal requiring the board's approval as set forth in Table I of the Zoning Bylaw.

Upon review of the site plans accompanying this appeal and the oral presentations made by the appellant, his attorney and his engineer, the board concluded that this property can readily accommodate the drive-through service, that the layout of the site provides for an orderly and controlled traffic flow for all customers and employees and that it would not create any condition that would be harmful or injurious to the welfare of the general public. It was their opinion that this drive-through service was in harmony with the intent of the bylaw in permitting such ancillary use within the Commercial Business District and, therefore, unanimously voted to grant the appeal as presented to the board.

#### Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Smith	Yes